



House of Commons

Wednesday 9 May 2018

CONSIDERATION OF BILL (REPORT STAGE)

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: 152 to 155

DATA PROTECTION BILL [*LORDS*], AS AMENDED

NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Data Protection Bill [Lords] Programme (No. 2) Motion to be proposed by Secretary Matt Hancock.

NEW CLAUSES, NEW SCHEDULES AND AMENDMENTS RELATING TO THE PROCESSING OF PERSONAL DATA FOR THE PURPOSES OF JOURNALISM

Secretary Matt Hancock

NC19

To move the following Clause—

“Guidance about how to seek redress against media organisations

- (1) The Commissioner must produce and publish guidance about the steps that may be taken where an individual considers that a media organisation is failing or has failed to comply with the data protection legislation.
- (2) In this section, “media organisation” means a body or other organisation whose activities consist of or include journalism.
- (3) The guidance must include provision about relevant complaints procedures, including—
 - (a) who runs them,
 - (b) what can be complained about, and
 - (c) how to make a complaint.
- (4) For the purposes of subsection (3), relevant complaints procedures include procedures for making complaints to the Commissioner, the Office of

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

Communications, the British Broadcasting Corporation and other persons who produce or enforce codes of practice for media organisations.

- (5) The guidance must also include provision about—
 - (a) the powers available to the Commissioner in relation to a failure to comply with the data protection legislation,
 - (b) when a claim in respect of such a failure may be made before a court and how to make such a claim,
 - (c) alternative dispute resolution procedures,
 - (d) the rights of bodies and other organisations to make complaints and claims on behalf of data subjects, and
 - (e) the Commissioner’s power to provide assistance in special purpose proceedings.
- (6) The Commissioner—
 - (a) may alter or replace the guidance, and
 - (b) must publish any altered or replacement guidance.
- (7) The Commissioner must produce and publish the first guidance under this section before the end of the period of 1 year beginning when this Act is passed.”

Member’s explanatory statement

This new clause would be inserted after Clause 172. It requires the Information Commissioner to produce guidance about how individuals can seek redress where a media organisation (defined in subsection (2) of the new clause) fails to comply with the data protection legislation, including guidance about making complaints and bringing claims before a court.

Secretary Matt Hancock

NC22

To move the following Clause—

“Review of processing of personal data for the purposes of journalism

- (1) The Commissioner must—
 - (a) review the extent to which the processing of personal data for the purposes of journalism complied with the data protection legislation during the review period,
 - (b) prepare a report of the review, and
 - (c) submit the report to the Secretary of State.
- (2) “The review period” means the period of 4 years beginning with the day on which Chapter 2 of Part 2 of this Act comes into force.
- (3) The Commissioner must—
 - (a) start the review within the period of 6 months beginning when the review period ends, and
 - (b) submit the report to the Secretary of State before the end of the period of 18 months beginning when the Commissioner started the review.
- (4) The report must include consideration of the extent of compliance (as described in subsection (1)(a)) in each part of the United Kingdom.
- (5) The Secretary of State must—
 - (a) lay the report before Parliament, and
 - (b) send a copy of the report to—
 - (i) the Scottish Ministers,

Data Protection Bill [Lords], continued

- (ii) the Welsh Ministers, and
- (iii) the Executive Office in Northern Ireland.”

Member’s explanatory statement

This new clause would be inserted after Clause 172. It requires the Information Commissioner to carry out a review of, and report on, the extent to which the processing of personal data for the purposes of journalism complied with the data protection legislation during the first 4 years of its operation. The Secretary of State must lay the report before Parliament and send a copy of the report to the Scottish Ministers, the Welsh Ministers and the Executive Office in Northern Ireland (formerly the office of the First Minister and deputy First Minister in Northern Ireland).

Secretary Matt Hancock

NC23

To move the following Clause—

“Data protection and journalism code

- (1) The Commissioner must prepare a code of practice which contains—
 - (a) practical guidance in relation to the processing of personal data for the purposes of journalism in accordance with the requirements of the data protection legislation, and
 - (b) such other guidance as the Commissioner considers appropriate to promote good practice in the processing of personal data for the purposes of journalism.
- (2) Where a code under this section is in force, the Commissioner may prepare amendments of the code or a replacement code.
- (3) Before preparing a code or amendments under this section, the Commissioner must consult such of the following as the Commissioner considers appropriate—
 - (a) trade associations;
 - (b) data subjects;
 - (c) persons who appear to the Commissioner to represent the interests of data subjects.
- (4) A code under this section may include transitional provision or savings.
- (5) In this section—

“good practice in the processing of personal data for the purposes of journalism” means such practice in the processing of personal data for those purposes as appears to the Commissioner to be desirable having regard to—

 - (a) the interests of data subjects and others, including compliance with the requirements of the data protection legislation, and
 - (b) the special importance of the public interest in the freedom of expression and information;

“trade association” includes a body representing controllers or processors.”

Member’s explanatory statement

This new Clause would be inserted after Clause 123. It requires the Commissioner to prepare a code of practice giving guidance about the processing of personal data for the purposes of journalism. Clauses 124 to 126 (approval, publication and effect) would apply to the code (see amendments 146, 147, 148, 149 and 150).

Data Protection Bill [Lords], *continued*

Edward Miliband
 Mr Kenneth Clarke
 Brendan O'Hara
 Christine Jardine
 Liz Saville Roberts
 Caroline Lucas

Ian C. Lucas

Paul Farrelly

NC18

To move the following Clause—

“Data protection breaches by national news publishers

- (1) The Secretary of State must, within the period of three months beginning with the day on which this Act is passed, establish an inquiry under the Inquiries Act 2005 into allegations of data protection breaches committed by or on behalf of national news publishers and other media organisations.
- (2) Before setting the terms of reference of and other arrangements for the inquiry the Secretary of State must—
 - (a) consult the Scottish Ministers with a view to ensuring, in particular, that the inquiry will consider the separate legal context and other circumstances of Scotland;
 - (b) consult Northern Ireland Ministers and members of the Northern Ireland Assembly with a view to ensuring, in particular, that the inquiry will consider the separate legal context and other circumstances of Northern Ireland;
 - (c) consult persons appearing to the Secretary of State to represent the interests of victims of data protection breaches committed by, on behalf of or in relation to, national news publishers and other media organisations; and
 - (d) consult persons appearing to the Secretary of State to represent the interests of news publishers and other media organisations (having regard in particular to organisations representing journalists).
- (3) The terms of reference for the inquiry must include requirements—
 - (a) to inquire into the extent of unlawful or improper conduct by or on behalf of national news publishers and other organisations within the media in respect of personal data;
 - (b) to inquire into the extent of corporate governance and management failures and the role, if any, of politicians, public servants and others in relation to failures to investigate wrongdoing at media organisations within the scope of the inquiry;
 - (c) to review the protections and provisions around media coverage of individuals subject to police inquiries, including the policy and practice of naming suspects of crime prior to any relevant charge or conviction;
 - (d) to investigate the dissemination of information and news, including false news stories, by social media organisations using personal data;
 - (e) to consider the adequacy of the current regulatory arrangements and the resources, powers and approach of the Information Commissioner and any other relevant authorities in relation to—
 - (i) the news publishing industry (except in relation to entities regulated by Ofcom) across all platforms and in the light of experience since 2012;
 - (ii) social media companies;

Data Protection Bill [Lords], continued

- (f) to make such recommendations as appear to the inquiry to be appropriate for the purpose of ensuring that the privacy rights of individuals are balanced with the right to freedom of expression.
- (4) In setting the terms of reference for the inquiry the Secretary of State must—
 - (a) have regard to the current context of the news, publishing and general media industry;
 - (b) must set appropriate parameters for determining which allegations are to be considered;
 - (c) determine the meaning and scope of references to national news publishers and other media organisations for the purposes of the inquiry.
- (5) Before complying with subsection (4) the Secretary of State must consult the judge or other person who is likely to be invited to chair the inquiry.
- (6) The inquiry may, so far as it considers appropriate—
 - (a) consider evidence given to previous public inquiries; and
 - (b) take account of the findings of and evidence given to previous public inquiries (and the inquiry must consider using this power for the purpose of avoiding the waste of public resources).
- (7) This section comes into force on Royal Assent.”

Member’s explanatory statement

This new clause would require the establishment of an inquiry under the Inquiries Act 2005 as recommended by Lord Justice Leveson for Part two of his Inquiry.

Tom Watson
Liam Byrne
Christine Jardine

NC20

To move the following Clause—

“Publishers of news-related material: damages and costs (No. 2)

- (1) This section applies where—
 - (a) a relevant claim for breach of the data protection legislation is made against a person (“the defendant”),
 - (b) the defendant was a relevant publisher at the material time, and
 - (c) the claim is related to the publication of news-related material.
- (2) If the defendant was a member of an approved regulator at the time when the claim was commenced (or was unable to be a member at that time for reasons beyond the defendant’s control or it would have been unreasonable in the circumstances for the defendant to have been a member at that time), the court must award costs against the claimant unless satisfied that—
 - (a) the issues raised by the claim could not have been resolved by using an arbitration scheme of the approved regulator, or
 - (b) it is just and equitable in all the circumstances of the case, including, for the avoidance of doubt—
 - (i) the conduct of the defendant, and
 - (ii) whether the defendant pleaded a reasonably arguable defence, to make a different award of costs or make no award of costs.
- (3) If the defendant was not an exempt relevant publisher and was not a member of an approved regulator at the time when the claim was commenced (but would have been able to be a member at that time and it would have been reasonable in

Data Protection Bill [Lords], continued

the circumstances for the defendant to have been a member at that time), the court must award costs against the defendant unless satisfied that—

- (a) the issues raised by the claim could not have been resolved by using an arbitration scheme of the approved regulator (had the defendant been a member), or
 - (b) it is just and equitable in all the circumstances of the case, including, for the avoidance of doubt—
 - (i) the conduct of the claimant, and
 - (ii) whether the claimant had a reasonably arguable claim, to make a different award of costs or make no award of costs.
- (4) This section is not to be read as limiting any power to make rules of court.
- (5) This section does not apply until such time as a body is first recognised as an approved regulator.”

Member’s explanatory statement

This new clause would provide that court costs of non-abusive, non-vexatious, and non-trivial libel and intrusion claims would be awarded against a newspaper choosing not to join a Royal Charter-approved regulator offering low-cost arbitration, but that newspapers who do join such a regulator would be protected from costs awards even if they lose a claim.

Tom Watson
Liam Byrne
Christine Jardine

NC21

To move the following Clause—

“Publishers of news-related material: interpretive provisions (No. 2)

- (1) This section applies for the purposes of section (*Publishers of news-related material: damages and costs (No. 2)*).
- (2) “Approved regulator” means a body recognised as a regulator of relevant publishers.
- (3) For the purposes of subsection (2), a body is “recognised” as a regulator of relevant publishers if it is so recognised by any body established by Royal Charter (whether established before or after the coming into force of this section) with the purpose of carrying on activities relating to the recognition of independent regulators of relevant publishers.
- (4) “Relevant claim” means a civil claim made in respect of data protection under the data protection legislation, brought in England or Wales by a claimant domiciled anywhere in the United Kingdom.
- (5) The “material time”, in relation to a relevant claim, is the time of the events giving rise to the claim.
- (6) “News-related material” means—
 - (a) news or information about current affairs,
 - (b) opinion about matters relating to the news or current affairs, or
 - (c) gossip about celebrities, other public figures or other persons in the news.
- (7) A relevant claim is related to the publication of news-related material if the claim results from—
 - (a) the publication of news-related material, or
 - (b) activities carried on in connection with the publication of such material (whether or not the material is in fact published).

Data Protection Bill [Lords], continued

- 25 (8) A reference to the “publication” of material is a reference to publication—
 (a) on a website,
 (b) in hard copy, or
 (c) by any other means,
 and references to a person who “publishes” material are to be read accordingly.
- 30 (9) A reference to “conduct” includes a reference to omissions; and a reference to a person’s conduct includes a reference to a person’s conduct after the events giving rise to the claim concerned.
- (10) “Relevant publisher” has the same meaning as in section 41 of the Crime and Courts Act 2013.
- 35 (11) A relevant publisher is exempt if it satisfies Condition A or B.
- (12) Condition A is that the publisher has a constitution which—
 (a) requires any surplus income or gains to be reinvested in the publisher, and
 (b) does not allow the distribution of any of its profits or assets (in cash or in kind) to members or third parties.
- 40 (13) Condition B is that the publisher—
 (a) publishes predominantly in Scotland, or predominantly in Wales, or predominantly in Northern Ireland or predominantly in specific regions or localities; and
 (b) has had an average annual turnover not exceeding £100 million over the last five complete financial years.”
- 45

Member’s explanatory statement

This new clause would provide that the penalty incentives in New Clause 20 would not apply to companies which publish only on a regional or local basis and have an annual turnover of less than £100m. It sets out that only data protection claims are eligible, and provides further interpretive provisions.

As an Amendment to Tom Watson’s proposed New Clause (*Publishers of news-related material: interpretive provisions (No. 2)*) (NC21):—

Brendan O’Hara
 Stuart C. McDonald
 Christine Jardine
 Tom Watson

(a)

- ☆ Line 33, leave out subsection (10) and insert—
 “(10) “Relevant publisher” has the same meaning as in section 41 of the Crime and Courts Act 2013, subject to subsection (10A).
 (10A) For the purposes of this Act, a publisher shall only be a “relevant publisher” if—
 (a) it has a registered address in England or Wales; and
 (b) its publications are published in, or in any part of, England or Wales.
 (10B) A relevant claim may be made under the data protection legislation only in respect of material which is published by a relevant publisher (as defined by subsections (10) and (10A)) and which is read or accessed in England or Wales.”

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

Secretary Matt Hancock

146

Clause 124, page 69, line 21, leave out “or 123” and insert “, 123 or (*Data protection and journalism code*)”
Member’s explanatory statement
 See the explanatory statement for NC23.

Secretary Matt Hancock

147

Clause 124, page 69, line 32, leave out “or 123” and insert “, 123 or (*Data protection and journalism code*)”
Member’s explanatory statement
 See the explanatory statement for NC23.

Secretary Matt Hancock

148

Clause 124, page 69, line 39, leave out “or 123” and insert “, 123 or (*Data protection and journalism code*)”
Member’s explanatory statement
 See the explanatory statement for NC23.

Secretary Matt Hancock

149

Clause 124, page 70, line 5, leave out “and 123” and insert “, 123 and (*Data protection and journalism code*)”
Member’s explanatory statement
 See the explanatory statement for NC23.

Secretary Matt Hancock

150

Clause 125, page 70, line 18, leave out “or 123(2)” and insert “, 123(2) or (*Data protection and journalism code*)(2)”
Member’s explanatory statement
 See the explanatory statement NC23.

Secretary Matt Hancock

145

Clause 196, page 115, line 42, at end insert—
 “() section (*Review of processing of personal data for the purposes of journalism*)(2);”
Member’s explanatory statement
 This amendment provides that EU Regulation No. 1182/71 determining the rules applicable to periods, dates and time limits does not apply for the purposes of the 4 year period described in subsection (2) of NC22.

Data Protection Bill [Lords], continued

Tom Watson
Liam Byrne

144

Clause 205, page 122, line 10, leave out “Section 190 extends” and insert “Sections (*Publishers of news-related material: damages and costs (No. 2)*), (*Publishers of news-related material: interpretive provisions (No. 2)*) and 190 extend”.

Julie Elliott
Alex Cunningham
Edward Miliband
Christine Jardine
Mr Kenneth Clarke

14

Schedule 2, page 156, line 4, at end insert—

“(d) any code which is adopted by an approved regulator as defined by section 42(2) of the Crime and Courts Act 2013.”

Member’s explanatory statement

This amendment would give the Standards Code of an approved press regulator the same status as the other journalism codes recognised in the Bill (The BBC and Ofcom Codes, and the Editors’ Code observed by members of IPSO).

REMAINING PROCEEDINGS ON CONSIDERATION

Secretary Matt Hancock

NC13

To move the following Clause—

“Information orders

- (1) This section applies if, on an application by the Commissioner, a court is satisfied that a person has failed to comply with a requirement of an information notice.
- (2) The court may make an order requiring the person to provide to the Commissioner some or all of the following—
 - (a) information referred to in the information notice;
 - (b) other information which the court is satisfied the Commissioner requires, having regard to the statement included in the notice in accordance with section 141(2)(b).
- (3) The order—
 - (a) may specify the form in which the information must be provided,
 - (b) must specify the time at which, or the period within which, the information must be provided, and
 - (c) may specify the place where the information must be provided.”

Member’s explanatory statement

This new clause would be inserted after Clause 143. It provides that, where a person has failed to comply with an information notice (given under Clause 141), the Information Commissioner may seek a court order requiring the person to provide the information referred to in the notice or other

Data Protection Bill [Lords], continued

information which the Commissioner requires for a reason specified in the notice. See also Amendments 57, 58 and 60.

Secretary Matt Hancock

NC14

To move the following Clause—

“Destroying or falsifying information and documents etc

- (1) This section applies where a person—
 - (a) has been given an information notice requiring the person to provide the Commissioner with information, or
 - (b) has been given an assessment notice requiring the person to direct the Commissioner to a document, equipment or other material or to assist the Commissioner to view information.
- (2) It is an offence for the person—
 - (a) to destroy or otherwise dispose of, conceal, block or (where relevant) falsify all or part of the information, document, equipment or material, or
 - (b) to cause or permit the destruction, disposal, concealment, blocking or (where relevant) falsification of all or part of the information, document, equipment or material,

with the intention of preventing the Commissioner from viewing, or being provided with or directed to, all or part of the information, document, equipment or material.
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that the destruction, disposal, concealment, blocking or falsification would have occurred in the absence of the person being given the notice.”

Member’s explanatory statement

This new clause would be inserted after Clause 145. It provides that, where the Information Commissioner has given an information notice (see Clause 141) or an assessment notice (see Clause 144) requiring access to information, a document, equipment or material, it is an offence to destroy or otherwise dispose of, conceal, block or (where relevant) falsify it.

Secretary Matt Hancock

NC15

To move the following Clause—

“Applications in respect of urgent notices

- (1) This section applies where an information notice, an assessment notice or an enforcement notice given to a person contains an urgency statement.
- (2) The person may apply to the court for either or both of the following—
 - (a) the disapplication of the urgency statement in relation to some or all of the requirements of the notice;
 - (b) a change to the time at which, or the period within which, a requirement of the notice must be complied with.

Data Protection Bill [Lords], continued

- (3) On an application under subsection (2), the court may do any of the following—
 - (a) direct that the notice is to have effect as if it did not contain the urgency statement;
 - (b) direct that the inclusion of the urgency statement is not to have effect in relation to a requirement of the notice;
 - (c) vary the notice by changing the time at which, or the period within which, a requirement of the notice must be complied with;
 - (d) vary the notice by making other changes required to give effect to a direction under paragraph (a) or (b) or in consequence of a variation under paragraph (c).
- (4) The decision of the court on an application under this section is final.
- (5) In this section, “urgency statement” means—
 - (a) in relation to an information notice, a statement under section 141(7)(a),
 - (b) in relation to an assessment notice, a statement under section 144(8)(a) or (8A)(d), and
 - (c) in relation to an enforcement notice, a statement under section 147(8)(a).”

Member’s explanatory statement

This new clause would be inserted after Clause 160. It enables a person who is given an information notice, assessment notice or enforcement which requires the person to comply with it urgently to apply to the court for variation of the timetable for compliance. It replaces the provision in Clauses 159(2) and 160(5) for appeals to the Tribunal. See also Amendments 54, 56 and 60.

Secretary Matt Hancock

NC16

To move the following Clause—

“Post-review powers to make provision about representation of data subjects

- (1) After the report under section 182(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,
 - (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, and
 - (c) make provision described in section 182(2)(e) in relation to the exercise in England and Wales and Northern Ireland of the rights of a data subject who is a child.
- (2) The powers under subsection (1) 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;

Data Protection Bill [Lords], continued

- (d) to confer functions on a person, including functions involving the exercise of a discretion;
 - (e) to amend sections 162 to 164, 173, 180, 194, 196 and 197;
 - (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.
- (3) The powers under subsection (1)(a) and (b) include power to make provision in relation to data subjects who are children or data subjects who are not children or both.
- (4) The provision mentioned in subsection (2)(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.
- (5) Regulations under this section are subject to the affirmative resolution procedure.”

Member's explanatory statement

This new clause would be inserted after Clause 182. It contains the provisions currently in subsections (4) to (7) of Clause 182, modified to take account of the changes made to that Clause by Amendments 61 and 62 (see subsections (1)(c) and (3) of this new Clause).

Secretary Matt Hancock

NC17

To move the following Clause—

“Reserve forces: data-sharing by HMRC

- (1) The Reserve Forces Act 1996 is amended as follows.
- (2) After section 125 insert—

“125A Supply of contact details by HMRC

- (1) This subsection applies to contact details for—
 - (a) a member of an ex-regular reserve force, or
 - (b) a person to whom section 66 (officers and former servicemen liable to recall) applies,
 which are held by HMRC in connection with a function of HMRC.
- (2) HMRC may supply contact details to which subsection (1) applies to the Secretary of State for the purpose of enabling the Secretary of State—
 - (a) to contact a member of an ex-regular reserve force in connection with the person's liability, or potential liability, to be called out for service under Part 6;
 - (b) to contact a person to whom section 66 applies in connection with the person's liability, or potential liability, to be recalled for service under Part 7.
- (3) Where a person's contact details are supplied under subsection (2) for a purpose described in that subsection, they may also be used for defence

Data Protection Bill [Lords], continued

purposes connected with the person's service (whether past, present or future) in the reserve forces or regular services.

- (4) In this section, "HMRC" means Her Majesty's Revenue and Customs.

125B Prohibition on disclosure of contact details supplied under section 125A

- (1) A person who receives information supplied under section 125A may not disclose it except with the consent of the Commissioners for Her Majesty's Revenue and Customs (which may be general or specific).
- (2) A person who contravenes subsection (1) is guilty of an offence.
- (3) It is a defence for a person charged with an offence under this section to prove that the person reasonably believed—
- (a) that the disclosure was lawful, or
 - (b) that the information had already lawfully been made available to the public.
- (4) Subsections (4) to (7) of section 19 of the Commissioners for Revenue and Customs Act 2005 apply to an offence under this section as they apply to an offence under that section.
- (5) Nothing in section 107 or 108 (institution of proceedings and evidence) applies in relation to an offence under this section.

125C Data protection

- (1) Nothing in section 125A or 125B authorises the making of a disclosure which contravenes the data protection legislation.
- (2) 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 new clause would be inserted after Clause 186. It provides for HMRC to supply the Secretary of State with the contact details of members of the ex-regular reserve force and former members of the armed forces so that they may be contacted regarding their liability to be called out or recalled for service under the Reserved Forces Act 1996. The details supplied may also be used for defence purposes connected with their service in the forces (whether past, present or future). It is an offence for the details supplied to be disclosed without the consent of the Commissioners for Revenue and Customs.

Data Protection Bill [Lords], continued

Tom Watson
Liam Byrne
Louise Haigh
Chris Elmore

NC3

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 Schedule containing a Bill of Data Rights in the Digital Environment.

Tom Watson
Liam Byrne
Louise Haigh
Chris Elmore

NC4

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
 - (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 Data 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.

Data Protection Bill [Lords], continued

- (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.

Tom Watson
Liam Byrne
Louise Haigh
Chris Elmore

NC6

To move the following Clause—

“Targeted dissemination disclosure notice for third parties and others (No. 2)

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

“10A(1) This paragraph applies to the following organisations and individuals—

- (a) a recognised third party (within the meaning of Part 6);
 - (b) a permitted participant (within the meaning of Part 7);
 - (c) a regulated donee (within the meaning of Schedule 7);
 - (d) a regulated participant (within the meaning of Schedule 7A);
 - (e) a candidate at an election (other than a local government election in Scotland);
 - (f) the election agent for such a candidate;
 - (g) an organisation or individual formerly falling within any of paragraphs (a) to (f); or
 - (h) 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.
- (2) 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.
- (3) This power shall not be available in respect of registered parties or their officers, save where they separately and independently fall into one or more of categories (a) to (h) of sub-paragraph (1).

Data Protection Bill [Lords], continued

- (4) 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.

Christine Jardine
Layla Moran

NC10

To move the following Clause—

“Automated decision-making concerning a child

- (1) Where a data controller expects to take a significant decision based solely on automated processing which may concern a child, the controller must, before such processing is undertaken—
 - (a) deposit a data protection impact assessment with the Commissioner, and
 - (b) consult the Commissioner (within the meaning of Article 36 of the GDPR), regardless of measures taken by the controller to mitigate any risk.
 - (2) Where, following prior consultation, the Commissioner does not choose to prevent processing on the basis of Article 58(2)(f) of the GDPR, the Commissioner must publish the part or parts of the data protection impact assessment provided under subsection (1), relevant to the reaching of that decision.
 - (3) The Commissioner must produce and publish a list of safeguards to be applied by data controllers where any significant decision based solely on automated processing may concern a child.
 - (4) For the purposes of this section, the meaning of “child” is determined by the age of lawful processing under Article 8 of the GDPR and section 9 of this Act.”
-

Data Protection Bill [Lords], continued

Christine Jardine
Layla Moran

NC11

To move the following Clause—

“Education: safe use of personal data

- (1) The Children and Social Work Act 2017 is amended as follows.
- (2) In section 35 (other personal, social, health and economic education), after subsection (1)(b) insert—

“(1A) In this section, “personal, social, health and economic education” shall include education relating to the safe use of personal data.”

Member’s explanatory statement

This new clause would enable the Secretary of State to require that personal information safety be taught as a mandatory part of the national PSHE curriculum.

Dr Sarah Wollaston
Dr Paul Williams
Dr Dan Poulter
Dr Philippa Whitford
Johnny Mercer
Mr Ben Bradshaw

Rosie Cooper	Luciana Berger	Diana Johnson
Norman Lamb	Mr Ian Liddell-Granger	Lucy Allan
Heidi Allen	Sir David Amess	Jeremy Lefroy
Antoinette Sandbach	Anna Soubry	Giles Watling
Debbie Abrahams	Rushanara Ali	Dr Roberta Blackman-Woods
Ruth Cadbury	Mr Ronnie Campbell	Stella Creasy
Alex Cunningham	Stephen Doughty	Clive Efford
Paul Farrelly	Ruth George	Lilian Greenwood
Mike Gapes	Kate Green	Mike Hill
Darren Jones	Catherine McKinnell	Grahame Morris
Eleanor Smith	Anna Turley	Liz Twist
Matt Western	Dr Rupa Huq	

NC12

To move the following Clause—

“Health bodies: disclosure of personal data

- (1) In section 261 of the Health and Social Care Act 2012 (Health and Social Care Information Centre: dissemination of information) after subsection (5) insert—

“(5A) A disclosure of personal data may be made under subsection (5)(e) only if it is made—

- (a) to and at the request of a member of a police force, and
- (b) for the purpose of investigating a serious offence.

(5B) In subsection (5A)—

“personal data” has the meaning given by section 3 of the Data Protection Act 2018;

Data Protection Bill [Lords], continued

“police force” means—

- (a) a police force within the meaning of section 101 of the Police Act 1996, and
- (b) an equivalent force operating under the law of any Part of the United Kingdom or of another country; and

“serious offence” means—

- (a) a serious offence within the meaning of Part 1 of Schedule 1 to the Serious Crime Act 2007,
- (b) an offence under the Offences Against the Person Act 1861, the Sexual Offences Act 2003, the Explosive Substances Act 1883, the Terrorism Act 2000 or the Terrorism Act 2006, and
- (c) the equivalent of any of those offences under the law of any Part of the United Kingdom or of another country.”

- (2) In section 13Z3 of the National Health Service Act 2006 (National Health Service Commissioning Board: permitted disclosure of information) at the end insert—

“(3) A disclosure of personal data may be made under subsection (1)(g) only if it is made—

- (a) to and at the request of a member of a police force, and
- (b) for the purpose of investigating a serious offence.

- (4) In subsection (3)—

“personal data” has the meaning given by section 3 of the Data Protection Act 2018;

“police force” means—

- (a) a police force within the meaning of section 101 of the Police Act 1996, and
- (b) an equivalent force operating under the law of any Part of the United Kingdom or of another country; and

“serious offence” means—

- (a) a serious offence within the meaning of Part 1 of Schedule 1 to the Serious Crime Act 2007,
- (b) an offence under the Offences against the Person Act 1861, the Sexual Offences Act 2003, the Explosive Substances Act 1883, the Terrorism Act 2000 or the Terrorism Act 2006, and
- (c) the equivalent of any of those offences under the law of any Part of the United Kingdom or of another country.”

- (3) In section 14Z23 of the National Health Service Act 2006 (clinical commissioning groups: permitted disclosure of information) at the end insert—

“(3) A disclosure of personal data may be made under subsection (1)(g) only if it is made—

- (a) to and at the request of a member of a police force, and
- (b) for the purpose of investigating a serious offence.

- (4) In subsection (3)—

“personal data” has the meaning given by section 3 of the Data Protection Act 2018;

“police force” means—

- (a) a police force within the meaning of section 101 of the Police Act 1996, and

Data Protection Bill [Lords], continued

- (b) an equivalent force operating under the law of any Part of the United Kingdom or of another country; and
- “serious offence” means—
- (a) a serious offence within the meaning of Part 1 of Schedule 1 to the Serious Crime Act 2007,
 - (b) an offence under the Offences against the Person Act 1861, the Sexual Offences Act 2003, the Explosive Substances Act 1883, the Terrorism Act 2000 or the Terrorism Act 2006, and
 - (c) the equivalent of any of those offences under the law of any Part of the United Kingdom or of another country.”
- (4) In section 79 of the Health and Social Care Act 2008 (Care Quality Commission: permitted disclosures) after subsection (3) insert—
- “(3A) A disclosure of personal data may be made under subsection (3)(g) only if it is made—
- (a) to and at the request of a member of a police force, and
 - (b) for the purpose of investigating a serious offence.
- (3B) In subsection (3A)—
- “personal data” has the meaning given by section 3 of the Data Protection Act 2018;
- “police force” means—
- (a) a police force within the meaning of section 101 of the Police Act 1996, and
 - (b) an equivalent force operating under the law of any Part of the United Kingdom or of another country; and
- “serious offence” means—
- (a) a serious offence within the meaning of Part 1 of Schedule 1 to the Serious Crime Act 2007,
 - (b) an offence under the Offences against the Person Act 1861, the Sexual Offences Act 2003, the Explosive Substances Act 1883, the Terrorism Act 2000 or the Terrorism Act 2006, and
 - (c) the equivalent of any of those offences under the law of any Part of the United Kingdom or of another country.””.

Member’s explanatory statement

This new clause would prevent personal data held by the NHS from being disclosed for the purpose of the investigation of a criminal offence unless the offence concerned is serious, which is consistent with the NHS Code of Confidentiality and GMC guidance on confidentiality. It would also mean that any such disclosure could only be made to the police, and not, for example, to Home Office immigration enforcement officials.

Data Protection Bill [Lords], continued

Stuart C. McDonald
Caroline Lucas

NC24

To move the following Clause—

“Safeguards on the transfer of data for lethal force operations overseas

- (1) A transferring controller may not make any transfer of personal data outside the United Kingdom under Part 4 of this Act where—
 - (a) the transferring controller knows, or should know, that the data will be used in an operation or activity that may involve the use of lethal force, and
 - (b) there is a real risk that the transfer would amount to a breach of domestic law or an internationally wrongful act under international law.
- (2) Where the transferring controller determines that there is no real risk under subsection (1)(b), the transfer is not lawful unless—
 - (a) the transferring controller documents the determination, providing reasons, and
 - (b) the Secretary of State has approved the transfer in writing.
- (3) Any documentation created under subsection (2) shall be provided to the Information Commissioner and the Investigatory Powers Commissioner within 90 days of the transfer.
- (4) A “transferring controller” is a controller who makes a transfer of personal data outside the United Kingdom under Part 4 of this Act.
- (5) For the purposes of subsection (1)(b),
 - (a) “domestic law” includes, but is not limited to,
 - (i) soliciting, encouraging, persuading or proposing a murder contrary to section 4 of the Offences Against the Person Act 1861,
 - (ii) conspiracy to commit murder contrary to section 1 or 1A of the Criminal Law Act 1977,
 - (iii) aiding, abetting, counselling, or procuring murder contrary to section 8 of the Accessories and Abettors Act 1861,
 - (iv) offences contrary to section 44, 45 and 46 of the Serious Crime Act 2007,
 - (v) offences under the International Criminal Court Act 2001.
 - (b) “International law” includes, but is not limited to, Article 16 of the 2001 Draft Articles on the Responsibility of States for Internationally Wrongful Acts.
- (6) The Secretary of State must lay before Parliament, within six months of the coming into force of this Act, guidance for intelligence officers on subsections (1) and (2).
- (7) The Secretary of State must lay before Parliament any subsequent changes made to the guidance reported under subsection (6) within 90 days of any changes being made.”

Christine Jardine
Alex Cunningham

18

Data Protection Bill [Lords], continued

Secretary Matt Hancock

22

Clause 7, page 5, line 24, after “(2)” insert “, (2A)”

Member’s explanatory statement

This amendment is consequential on Amendment 24.

Christine Jardine
Julie Cooper
Alex Cunningham
Norman Lamb

19

Clause 7, page 5, line 24, at end insert—

“(1A) A primary care service provider is not a “public authority” or “public body” for the purposes of the GDPR merely by virtue of the fact that it is defined as a public authority by either—

- (a) any of paragraphs 43A to 45A or paragraph 51 of Schedule 1 to the Freedom of Information Act 2000, or
- (b) any of paragraphs 33 to 35 of Schedule 1 to the Freedom of Information (Scotland) Act 2002 (asp 13).”

Secretary Matt Hancock

23

Clause 7, page 5, line 26, after “body” insert “for the purposes of the GDPR”

Member’s explanatory statement

Subsection (2) of Clause 7 provides that an authority or body is only a “public authority” or a “public body” if it meets the conditions in that subsection. This amendment makes it clear that subsection (2) only affects a body or authority’s status for the purposes of the GDPR.

Secretary Matt Hancock

24

Clause 7, page 5, line 27, at end insert—

“(2A) The references in subsection (1)(a) and (b) to public authorities and Scottish public authorities as defined by the Freedom of Information Act 2000 and the Freedom of Information (Scotland) Act 2002 (asp 13) do not include any of the following that fall within those definitions—

- (a) a parish council in England;
- (b) a community council in Wales;
- (c) a community council in Scotland;
- (d) a parish meeting constituted under section 13 of the Local Government Act 1972;
- (e) a community meeting constituted under section 27 of that Act;
- (f) charter trustees constituted—
 - (i) under section 246 of that Act,
 - (ii) under Part 1 of the Local Government and Public Involvement in Health Act 2007, or
 - (iii) by the Charter Trustees Regulations 1996 (S.I. 1996/263).”

Member’s explanatory statement

This amendment provides that the authorities listed in new subsection (2A) are not “public authorities” or “public bodies” for the purposes of the GDPR by virtue of being public authorities

Data Protection Bill [Lords], continued

or Scottish public authorities as defined in the Freedom of Information Act 2000 and the Freedom of Information (Scotland) Act 2002.

Brendan O'Hara
Stuart C. McDonald
Caroline Lucas

Clause 10, page 6, line 37, 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.

4

Brendan O'Hara
Stuart C. McDonald
Caroline Lucas

Clause 14, page 8, line 11, at end insert—

“(2A) A decision that engages an individual’s rights under the Human Rights Act 1998 does not fall within Article 22(2)(b) of the GDPR (exception from prohibition on taking significant decisions based solely on automated processing for decisions that are authorised by law and subject to safeguards for the data subject’s rights, freedoms and legitimate interests).

(2B) A decision is “based solely on automated processing” for the purposes of this section if, in relation to a data subject, there is no meaningful input by a natural person in the decision-making process.”

Member's explanatory statement

This amendment would ensure that where human rights are engaged by automated decisions these are human decisions and provides clarification that purely administrative human approval of an automated decision does make an automated decision a 'human' one.

5

Brendan O'Hara
Stuart C. McDonald
Caroline Lucas

Page 9, line 36, leave out Clause 16

Member's explanatory statement

This amendment would remove delegated powers that would allow the Secretary of State to add further exemptions.

6

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

Secretary Matt Hancock

143

Clause 21, page 13, line 10, leave out “to which Part 3 (law enforcement processing) or” and insert “by a competent authority for any of the law enforcement purposes (as defined in Part 3) or processing to which”

Member’s explanatory statement

This amendment clarifies the description of the types of processing excluded from Chapter 3 of Part 2 (other general processing).

Brendan O’Hara
Stuart C. McDonald
Caroline Lucas

7

Clause 35, page 22, line 14, 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.

Brendan O’Hara
Stuart C. McDonald

151

Clause 49, page 30, line 19, at end insert—
“, subject to subsection (1A).

(1A) A controller may not take a significant decision based solely on automated processing if that decision affects the rights of the data subject under the Human Rights Act 1998.”

Brendan O’Hara
Stuart C. McDonald
Caroline Lucas

2

Clause 50, page 30, line 28, 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.

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

Brendan O'Hara
 Stuart C. McDonald
 Caroline Lucas

8

Clause 86, page 51, line 21, 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.

Brendan O'Hara
 Stuart C. McDonald

3

Clause 96, page 56, line 38, after "law" insert "unless the decision engages an individual's rights 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.

Brendan O'Hara
 Stuart C. McDonald
 Caroline Lucas

9

Page 63, line 27, 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.

Secretary Matt Hancock

25

Clause 119, page 66, line 12, at end insert—

“() Paragraphs (c) and (d) of section 3(14) do not apply to references in this section to personal data, the processing of personal data, a controller or a processor.”

Member's explanatory statement

This amendment secures that the references to personal data, the processing of personal data, a controller or a processor in Clause 119 include all types of personal data etc. It disapplies Clause 3(14)(c) and (d), which provide that references to personal data etc in Parts 5 to 7 of the Bill are usually to personal data etc to which Chapter 2 or 3 of Part 2, Part 3 or Part 4 applies.

Data Protection Bill [Lords], continued

Secretary Matt Hancock

26

Clause 120, page 67, line 4, at end insert—

“() Section 3(14)(c) does not apply to references to personal data and the processing of personal data in this section.”

Member’s explanatory statement

This amendment secures that the references to personal data and the processing of personal data in Clause 120 include all types of personal data and the processing of personal data. It disapplies Clause 3(14)(c), which provides that references to personal data etc in Parts 5 to 7 of the Bill are usually to personal data etc to which Chapter 2 or 3 of Part 2, Part 3 or Part 4 applies.

Secretary Matt Hancock

27

Clause 141, page 78, line 2, after “of” insert “—

- (i) investigating a suspected failure of a type described in section 146(2) or a suspected offence under this Act, or
- (ii) ”

Member’s explanatory statement

This amendment enables the Information Commissioner to obtain information from any person for the purposes of investigating failures to comply with the data protection legislation that are listed in Clause 146(2) or suspected offences under the Bill.

Secretary Matt Hancock

28

Clause 141, page 78, line 5, after “state” insert “—

- (a) whether it is given under subsection (1)(a), (b)(i) or (b)(ii), and
- (b) ”

Member’s explanatory statement

This amendment requires information notices given by the Information Commissioner to state whether they are given under Clause 141(1)(a), (b)(i) or (b)(ii). See also Amendment 27.

Secretary Matt Hancock

29

Clause 141, page 78, line 15, leave out “the rights of appeal under section 159” and insert “—

- (a) the consequences of failure to comply with it, and
- (b) the rights under sections 159 and (*Applications in respect of urgent notices*) (appeals etc).”

Member’s explanatory statement

This amendment adds a requirement for information notices to include information about the consequences of failure to comply. The reference in paragraph (b) to applications in respect of urgent notices is consequential on NC15.

Secretary Matt Hancock

30

Clause 141, page 78, line 26, leave out “7 days” and insert “24 hours”

Member’s explanatory statement

This amendment provides that, in urgent cases, the Information Commissioner must allow a

Data Protection Bill [Lords], continued

minimum of 24 hours, rather than 7 days, for a person to provide information requested in an information notice.

Secretary Matt Hancock

- 31**
- Clause 144, page 80, line 19, after “for” insert “a copy (in such form as may be requested) of”
Member’s explanatory statement
This amendment and Amendments 32 and 33 tidy up Clause 144(2)(d) and make clear that the Commissioner may ask for copies of documents, as well as information viewed, to be provided in a particular form.

Secretary Matt Hancock

- 32**
- Clause 144, page 80, line 20, leave out “a copy of”
Member’s explanatory statement
See the explanatory statement for Amendment 31.

Secretary Matt Hancock

- 33**
- Clause 144, page 80, line 21, leave out “a copy (in such form as may be requested) of”
Member’s explanatory statement
See the explanatory statement for Amendment 31.

Secretary Matt Hancock

- 34**
- Clause 144, page 80, line 27, at end insert—
“() provide the Commissioner with an explanation of such documents, information, equipment or material;”
Member’s explanatory statement
This amendment enables an assessment notice given by the Information Commissioner to require a person to provide an explanation of documents, information, equipment or material.

Secretary Matt Hancock

- 35**
- Clause 144, page 80, line 39, leave out “(8)” and insert “(8A)”
Member’s explanatory statement
See the explanatory statement for Amendment 38.

Secretary Matt Hancock

- 36**
- Clause 144, page 80, line 40, leave out “the rights of appeal under section 159” and insert “—
(a) the consequences of failure to comply with it, and
(b) the rights under sections 159 and (*Applications in respect of urgent notices*) (appeals etc).”

Data Protection Bill [Lords], continued

Member's explanatory statement

This amendment adds a requirement for assessment notices to include information about the consequences of failure to comply. The reference in paragraph (b) to applications in respect of urgent notices is consequential on NC15.

Secretary Matt Hancock

37

Clause 144, page 81, line 8, at end insert “, and

() does not meet the conditions in subsection (8A)(a) to (d),”

Member's explanatory statement

This amendment makes clear that, where an assessment notice is given under Clause 144 and compliance is required urgently, the notice cannot fall within both subsection (8) and new subsection (8A) (see Amendment 38).

Damian Collins
 Ian C. Lucas
 Julie Elliott
 Christian Matheson
 Jo Stevens
 Simon Hart

Giles Watling

Brendan O'Hara

20

Clause 144, page 81, line 11, leave out “7 days” and insert “24 hours”

Member's explanatory statement

This amendment would reduce from 7 days to 24 hours the minimum period which must elapse before a controller or processor has to comply with an assessment notice which has been issued by the Commissioner and which the Commissioner has stated should be complied with urgently.

Secretary Matt Hancock

38

Clause 144, page 81, line 11, at end insert—

“(8A) If an assessment notice—

- (a) states that, in the Commissioner's opinion, there are reasonable grounds for suspecting that a controller or processor has failed or is failing as described in section 146(2) or that an offence under this Act has been or is being committed,
 - (b) indicates the nature of the suspected failure or offence,
 - (c) does not specify domestic premises,
 - (d) states that, in the Commissioner's opinion, it is necessary for the controller or processor to comply with a requirement in the notice in less than 7 days, and
 - (e) gives the Commissioner's reasons for reaching that opinion,
- subsections (6) and (7) do not apply.”

Member's explanatory statement

This amendment and Amendments 35 and 39 provide that, in the circumstances described in the new subsection (8A), the Commissioner may require a person to comply with an assessment notice with immediate effect.

Data Protection Bill [Lords], continued

Secretary Matt Hancock

39

Clause 144, page 81, line 17, after “section” insert “—
“domestic premises” means premises, or a part of premises, used as a
dwelling;”

Member’s explanatory statement*See the explanatory statement for Amendment 38.*

Secretary Matt Hancock

40

Clause 146, page 82, line 22, after “GDPR” insert “or section 64 or 65 of this Act”
Member’s explanatory statement

This amendment enables the Information Commissioner to give an enforcement notice or a penalty notice (see Clause 152(1)(a)) in respect of a failure to comply with Clause 64 or 65 of the Bill (law enforcement processing: data protection impact assessments and prior consultation with the Commissioner).

Secretary Matt Hancock

41

Clause 146, page 83, line 8, leave out “enforcement notices” and insert “an
enforcement notice”

Member’s explanatory statement*This amendment is made for drafting consistency with the provision inserted by Amendment 43.*

Secretary Matt Hancock

42

Clause 146, page 83, line 9, at end insert “, including by amending this section and
sections 147 to 149,”

Member’s explanatory statement*This amendment is consequential on Amendment 43.*

Secretary Matt Hancock

43

Clause 146, page 83, line 10, leave out paragraph (b) and insert—

“() may make provision about the giving of an information notice, an
assessment notice or a penalty notice, or about powers of entry and
inspection, in connection with the failure, including by amending
sections 141, 142, 144, 145 and 152 to 154 and Schedules 15 and 16,
and”

Member’s explanatory statement*This amendment enables the Secretary of State, when making regulations enabling the Information Commissioner to give enforcement notices in respect of further failures, to make provision about the exercise of the Information Commissioner’s other enforcement powers in connection with the failure.*

Data Protection Bill [Lords], continued

Secretary Matt Hancock

- 44
- Clause 147, page 83, line 31, leave out “the rights of appeal under section 159” and insert “—
- (a) the consequences of failure to comply with it, and
 - (b) the rights under sections 159 and (*Applications in respect of urgent notices*) (appeals etc).”

Member’s explanatory statement

This amendment adds a requirement for enforcement notices to include information about the consequences of failure to comply. The reference in paragraph (b) to applications in respect of urgent notices is consequential on new Clause NC15.

Secretary Matt Hancock

- 45
- Clause 147, page 83, line 44, leave out “7 days” and insert “24 hours”
- Member’s explanatory statement**
- This amendment provides that, in urgent cases, the Information Commissioner must allow a minimum of 24 hours, rather than 7 days, for a person to comply with an enforcement notice.*

Secretary Matt Hancock

- 46
- Clause 155, page 88, line 36, leave out “Secretary of State” and insert “Commissioner”
- Member’s explanatory statement**
- This amendment provides that the persons to be consulted before the Commissioner produces a document specifying the penalties for non-compliance with charges regulations are the persons that the Commissioner, rather than the Secretary of State, considers appropriate.*

Secretary Matt Hancock

- 47
- Clause 157, page 89, line 12, at end insert—
- “() information notices,”
- Member’s explanatory statement**
- This amendment requires the guidance produced under Clause 157 to include guidance about how the Information Commissioner proposes to exercise her functions in connection with information notices.*

Secretary Matt Hancock

- 48
- Clause 157, page 89, line 18, at end insert—
- “() In relation to information notices, the guidance must include—
- (a) provision specifying factors to be considered in determining the time at which, or the period within which, information is to be required to be provided;
 - (b) provision about the circumstances in which the Commissioner would consider it appropriate to give an information notice to a person in reliance on section 141(7) (urgent cases);

Data Protection Bill [Lords], continued

- (c) provision about how the Commissioner will determine how to proceed if a person does not comply with an information notice.”

Member’s explanatory statement

This amendment specifies what the guidance under Clause 157 in relation to information notices must include.

Secretary Matt Hancock

49

Clause 157, page 89, line 21, at end insert—

- “() provision about the circumstances in which the Commissioner would consider it appropriate to give an assessment notice in reliance on section 144(8) or (8A) (urgent cases);”

Member’s explanatory statement

This amendment provides that the guidance under Clause 157 in relation to assessment notices must include provision about when the Information Commissioner would consider it appropriate to give an assessment notice requiring a person to comply with it urgently.

Secretary Matt Hancock

50

Clause 157, page 89, line 33, at end insert—

- “() provision about how the Commissioner will determine how to proceed if a person does not comply with an assessment notice.”

Member’s explanatory statement

This amendment provides that the guidance under Clause 157 in relation to assessment notices must include provision about how the Information Commissioner will determine how to proceed if a person does not comply with such a notice.

Secretary Matt Hancock

51

Clause 157, page 89, line 39, at end insert—

- “() In relation to enforcement notices, the guidance must include—
- (a) provision specifying factors to be considered in determining whether to give an enforcement notice to a person;
 - (b) provision about the circumstances in which the Commissioner would consider it appropriate to give an enforcement notice to a person in reliance on section 147(8) (urgent cases);
 - (c) provision about how the Commissioner will determine how to proceed if a person does not comply with an enforcement notice.”

Member’s explanatory statement

This amendment specifies what the guidance under Clause 157 in relation to enforcement notices must include.

Secretary Matt Hancock

52

Clause 157, page 90, line 2, at end insert—

- “() provision about how the Commissioner will determine how to proceed if a person does not comply with a penalty notice.”

Member’s explanatory statement

This amendment provides that the guidance under Clause 157 in relation to penalty notices must include provision about how the Information Commissioner will determine how to proceed if a person does not comply with such a notice.

Data Protection Bill [Lords], continued

Secretary Matt Hancock

Clause 157, page 90, line 9, leave out “Secretary of State” and insert “Commissioner” 53

Member’s explanatory statement

This amendment provides that the persons to be consulted before the Commissioner produces guidance about regulatory action are the persons that the Commissioner, rather than the Secretary of State, considers appropriate.

Secretary Matt Hancock

Clause 159, page 91, line 10, leave out subsection (2) 54

Member’s explanatory statement

See the explanatory statement for NC15.

Secretary Matt Hancock

Clause 159, page 91, line 20, after “appeal” insert “to the Tribunal” 55

Member’s explanatory statement

This amendment adds a reference to the Tribunal in Clause 159(4) for consistency with Clause 159(3) and (5).

Secretary Matt Hancock

Clause 160, page 91, line 39, leave out subsection (5) 56

Member’s explanatory statement

See the explanatory statement for NC15.

Secretary Matt Hancock

Clause 173, page 100, line 38, for “subsection (3)” substitute “subsections (3) and (4)” 57

Member’s explanatory statement

See the explanatory statement for Amendment 58.

Secretary Matt Hancock

Clause 173, page 100, line 39, at end insert— 58

“() section (*Information orders*) (information orders);”

Member’s explanatory statement

This amendment and Amendments 57 and 60 provide that information orders under new Clause NC13 can normally be made by the High Court or county court or, in Scotland, by the Court of Session or the sheriff. There is an exception for cases in which the information notice contains an

Data Protection Bill [Lords], continued

urgency statement, when only the High Court or, in Scotland, the Court of Session can make an information order.

Secretary Matt Hancock

Clause 173, page 101, line 2, after “jurisdiction” insert “conferred by the provisions listed in subsection (2)” 59

Member’s explanatory statement

This amendment adds words to make clear that the jurisdiction referred to in Clause 173(3) is the jurisdiction conferred on a court by the provisions listed in subsection (2) of that clause.

Secretary Matt Hancock

Clause 173, page 101, line 3, at end insert— 60

“(4) In relation to an information notice which contains a statement under section 141(7), the jurisdiction conferred on a court by section (*Information orders*) is exercisable only by the High Court or, in Scotland, the Court of Session.

(5) The jurisdiction conferred on a court by section (*Applications in respect of urgent notices*) (applications in respect of urgent notices) is exercisable only by the High Court or, in Scotland, the Court of Session.”

Member’s explanatory statement

See the explanatory statement for Amendment 58. This amendment also provides that applications under NC15 are to be dealt with by the High Court or, in Scotland, by the Court of Session.

Caroline Lucas

★ Clause 180, page 105, line 16, at end insert— 153

“(1A) In relation to the processing of personal data to which the GDPR applies, Article 80(2) of the GDPR (representation of data subjects) permits and this Act provides that a body or other organisation which meets the conditions set out in that Article has the right to lodge a complaint, or exercise the rights, independently of a data subject’s mandate, under—

- (a) Article 77 (right to lodge a complaint with a supervisory body);
- (b) Article 78 (right to an effective judicial remedy against a supervisory authority); and
- (c) Article 79 (right to an effective judicial remedy against a controller or processor), of the GDPR if it considers that the rights of a data subject under the GDPR have been infringed as a result of the processing.”

Caroline Lucas

★ Clause 180, page 105, line 27, at end insert— 154

“(2A) The rights in subsections (2)(a) to (2)(d) may also be exercised by a body or other organisation that meets conditions in subsections (3) and (4) independently of a data subject’s authorisation.”

Data Protection Bill [Lords], continued

Caroline Lucas

155

★ Page 106, line 19, leave out Clause 182

Secretary Matt Hancock

61

Clause 182, page 106, line 34, at end insert “, and

- (e) the merits of making provision for a children’s rights organisation to exercise some or all of a data subject’s rights under Articles 77, 78, 79 and 82 of the GDPR on behalf of a data subject who is a child, with or without being authorised to do so by the data subject.”

Member’s explanatory statement

This amendment requires the Secretary of State’s review under Clause 182 to include a review of the merits of making provision for children’s rights organisations (defined in Amendment 62) to act on behalf of children in respect of their rights to complain to the Information Commissioner, to a judicial remedy and to compensation under the GDPR.

Secretary Matt Hancock

62

Clause 182, page 106, line 36, at end insert—

- () In carrying out the review, the Secretary of State must—
 - (a) consider the particular needs of children separately from the needs of adults,
 - (b) have regard to the fact that children have different needs at different stages of development,
 - (c) carry out an analysis of the particular challenges that children face in authorising, and deciding whether to authorise, other persons to act on their behalf under Article 80(1) of the GDPR or section 180,
 - (d) consider the support and advice available to children in connection with the exercise of their rights under Articles 77, 78, 79 and 82 of the GDPR by another person on their behalf and the merits of making available other support or advice, and
 - (e) have regard to the United Kingdom’s obligations under the United Nations Convention on the Rights of the Child.
- () Before preparing the report under subsection (1), the Secretary of State must consult the Commissioner and such other persons as the Secretary of State considers appropriate, including—
 - (a) persons active in the field of protection of data subjects’ rights and freedoms with regard to the protection of their personal data,
 - (b) children and parents,
 - (c) children’s rights organisations and other persons who appear to the Secretary of State to represent the interests of children,
 - (d) child development experts, and
 - (e) trade associations.
- () In this section—
 - “children’s rights organisation” means a body or other organisation which—
 - (a) is active in representing the interests of children, and
 - (b) has objectives which are in the public interest;
 - “trade association” includes a body representing controllers or processors;
 - “the United Nations Convention on the Rights of the Child” means the Convention on the Rights of the Child adopted by the General Assembly

Data Protection Bill [Lords], continued

of the United Nations on 20 November 1989 (including any Protocols to that Convention which are in force in relation to the United Kingdom), subject to any reservations, objections or interpretative declarations by the United Kingdom for the time being in force.”

Member’s explanatory statement

This amendment requires the Secretary of State to consider and analyse specified matters relating to children when carrying out the review under Clause 182. It also imposes an obligation on the Secretary of State to consult specified persons before preparing the report under that clause.

Secretary Matt Hancock

63

Clause 182, page 106, line 37, leave out subsections (4) to (7)

Member’s explanatory statement

This amendment is consequential on NC16, which reproduces subsections (4) to (7) of Clause 182 with modifications.

Secretary Matt Hancock

64

Clause 187, page 109, line 24, after “143” insert “, (Destroying or falsifying information and documents etc)”

Member’s explanatory statement

This amendment provides for a person who commits an offence under NC14 to be liable to a fine, on summary conviction or on conviction on indictment.

Secretary Matt Hancock

65

Clause 190, page 111, line 12, at end insert—

“() section (Destroying or falsifying information and documents etc);”

Member’s explanatory statement

This amendment provides for convictions for the offence under NC14 to be recorded on the Police National Computer. People who are arrested for a recordable offence may have their fingerprints and DNA samples taken.

Secretary Matt Hancock

66

Clause 198, page 118, line 36, after “provision” insert “in or”

Member’s explanatory statement

Subsections (1) to (3) of Clause 198 (territorial application) set out when the Bill applies to the processing of personal data. Subsection (4) provides that subsections (1) to (3) have effect subject to provision made “under” Clause 120. This amendment amends subsection (4) so that it also refers to provision made “in” Clause 120 (see Clause 120(4)).

Data Protection Bill [Lords], continued

Secretary Matt Hancock

67

Clause 203, page 121, line 36, for “204” substitute “204(2)”

Member’s explanatory statement

This amendment is consequential on Amendment 68.

Secretary Matt Hancock

68

Clause 204, page 122, line 1, at end insert—

“(1) Schedule (*Transitional provision etc*) contains transitional, transitory and saving provision.

(2) ”

Member’s explanatory statement

This amendment is consequential on NS3.

Secretary Matt Hancock

69

Clause 204, page 122, line 4, at end insert “or with the GDPR beginning to apply, including provision amending or repealing a provision of Schedule (*Transitional provision etc*).

() Regulations under this section that amend or repeal a provision of Schedule (*Transitional provision etc*) are subject to the negative resolution procedure.”

Member’s explanatory statement

This amendment enables the Secretary of State, by regulations, to make transitional, transitory or saving provision in connection with the GDPR beginning to apply. It also enables regulations, subject to the negative resolution procedure, to amend NS3.

Secretary Matt Hancock

70

Clause 205, page 122, line 11, leave out “and 182” insert “, 182 and (*Post-review powers to make provision about representation of data subjects*)”

Member’s explanatory statement

This amendment is consequential on NC16. It provides that the new Clause extends to England and Wales and Northern Ireland only.

Secretary Matt Hancock

71

Clause 205, page 122, line 16, for “204” substitute “204(2)”

Member’s explanatory statement

This amendment is consequential on Amendment 68.

Data Protection Bill [Lords], continued

Secretary Matt Hancock

NS3

To move the following Schedule—

“TRANSITIONAL PROVISION ETC

PART 1

GENERAL

Interpretation

- 1 (1) In this Schedule—
- “the 1984 Act” means the Data Protection Act 1984;
 - “the 1998 Act” means the Data Protection Act 1998;
 - “the 2014 Regulations” means the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141);
 - “data controller” has the same meaning as in the 1998 Act (see section 1 of that Act);
 - “the old data protection principles” means the principles set out in—
 - (a) Part 1 of Schedule 1 to the 1998 Act, and
 - (b) regulation 30 of the 2014 Regulations.
- (2) A provision of the 1998 Act that has effect by virtue of this Schedule is not, by virtue of that, part of the data protection legislation (as defined in section 3).

PART 2

RIGHTS OF DATA SUBJECTS

Right of access to personal data under the 1998 Act

- 2 (1) The repeal of sections 7 to 9A of the 1998 Act (right of access to personal data) does not affect the application of those sections after the relevant time in a case in which a data controller received a request under section 7 of that Act (right of access to personal data) before the relevant time.
- (2) The repeal of sections 7 and 8 of the 1998 Act and the revocation of regulation 44 of the 2014 Regulations (which applies those sections with modifications) do not affect the application of those sections and that regulation after the relevant time in a case in which a UK competent authority received a request under section 7 of the 1998 Act (as applied by that regulation) before the relevant time.
- (3) The revocation of the relevant regulations, or their amendment by Schedule 18 to this Act, and the repeals and revocation mentioned in sub-paragraphs (1) and (2), do not affect the application of the relevant regulations after the relevant time in a case described in those sub-paragraphs.
- (4) In this paragraph—
- “the relevant regulations” means—
 - (a) the Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations 2000 (S.I. 2000/191);
 - (b) regulation 4 of, and Schedule 1 to, the Consumer Credit (Credit Reference Agency) Regulations 2000 (S.I. 2000/290);
 - (c) regulation 3 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (S.I. 2004/3244);

Data Protection Bill [Lords], continued

“the relevant time” means the time when the repeal of section 7 of the 1998 Act comes into force;

“UK competent authority” has the same meaning as in Part 4 of the 2014 Regulations (see regulation 27 of those Regulations).

Right to prevent processing likely to cause damage or distress under the 1998 Act

- 3 (1) The repeal of section 10 of the 1998 Act (right to prevent processing likely to cause damage or distress) does not affect the application of that section after the relevant time in a case in which an individual gave notice in writing to a data controller under that section before the relevant time.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 10 of the 1998 Act comes into force.

Right to prevent processing for purposes of direct marketing under the 1998 Act

- 4 (1) The repeal of section 11 of the 1998 Act (right to prevent processing for purposes of direct marketing) does not affect the application of that section after the relevant time in a case in which an individual gave notice in writing to a data controller under that section before the relevant time.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 11 of the 1998 Act comes into force.

Automated processing under the 1998 Act

- 5 (1) The repeal of section 12 of the 1998 Act (rights in relation to automated decision-taking) does not affect the application of that section after the relevant time in relation to a decision taken by a person before that time if—
- (a) in taking the decision the person failed to comply with section 12(1) of the 1998 Act, or
- (b) at the relevant time—
- (i) the person had not taken all of the steps required under section 12(2) or (3) of the 1998 Act, or
- (ii) the period specified in section 12(2)(b) of the 1998 Act (for an individual to require a person to reconsider a decision) had not expired.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 12 of the 1998 Act comes into force.

Compensation for contravention of the 1998 Act or Part 4 of the 2014 Regulations

- 6 (1) The repeal of section 13 of the 1998 Act (compensation for failure to comply with certain requirements) does not affect the application of that section after the relevant time in relation to damage or distress suffered at any time by reason of an act or omission before the relevant time.
- (2) The revocation of regulation 45 of the 2014 Regulations (right to compensation) does not affect the application of that regulation after the relevant time in relation to damage or distress suffered at any time by reason of an act or omission before the relevant time.
- (3) “The relevant time” means—
- (a) in sub-paragraph (1), the time when the repeal of section 13 of the 1998 Act comes into force;
- (b) in sub-paragraph (2), the time when the revocation of regulation 45 of the 2014 Regulation comes into force.

Data Protection Bill [Lords], continued
Rectification, blocking, erasure and destruction under the 1998 Act

- 7
- (1) The repeal of section 14(1) to (3) and (6) of the 1998 Act (rectification, blocking, erasure and destruction of inaccurate personal data) does not affect the application of those provisions after the relevant time in a case in which an application was made under subsection (1) of that section before the relevant time.
 - (2) The repeal of section 14(4) to (6) of the 1998 Act (rectification, blocking, erasure and destruction: risk of further contravention in circumstances entitling data subject to compensation under section 13 of the 1998 Act) does not affect the application of those provisions after the relevant time in a case in which an application was made under subsection (4) of that section before the relevant time.
 - (3) In this paragraph, “the relevant time” means the time when the repeal of section 14 of the 1998 Act comes into force.

Jurisdiction and procedure under the 1998 Act

- 8
- The repeal of section 15 of the 1998 Act (jurisdiction and procedure) does not affect the application of that section in connection with sections 7 to 14 of the 1998 Act as they have effect by virtue of this Schedule.

Exemptions under the 1998 Act

- 9
- (1) The repeal of Part 4 of the 1998 Act (exemptions) does not affect the application of that Part after the relevant time in connection with a provision of Part 2 of the 1998 Act as it has effect after that time by virtue of paragraphs 2 to 7 of this Schedule.
 - (2) The revocation of the relevant Orders, and the repeal mentioned in subparagraph (1), do not affect the application of the relevant Orders after the relevant time in connection with a provision of Part 2 of the 1998 Act as it has effect as described in sub-paragraph (1).
 - (3) In this paragraph—

“the relevant Orders” means—

 - (a) the Data Protection (Corporate Finance Exemption) Order 2000 (S.I. 2000/184);
 - (b) the Data Protection (Subject Access Modification) (Health) Order 2000 (S.I. 2000/413);
 - (c) the Data Protection (Subject Access Modification) (Education) Order 2000 (S.I. 2000/414);
 - (d) the Data Protection (Subject Access Modification) (Social Work) Order 2000 (S.I. 2000/415);
 - (e) the Data Protection (Crown Appointments) Order 2000 (S.I. 2000/416);
 - (f) Data Protection (Miscellaneous Subject Access Exemptions) Order 2000 (S.I. 2000/419);
 - (g) Data Protection (Designated Codes of Practice) (No. 2) Order 2000 (S.I. 2000/1864);

“the relevant time” means the time when the repeal of the provision of Part 2 of the 1998 Act in question comes into force.
 - (4) As regards certificates issued under section 28(2) of the 1998 Act, see Part 5 of this Schedule.

Data Protection Bill [Lords], continued

Prohibition by this Act of requirement to produce relevant records

- 10 (1) In Schedule 17 to this Act, references to a record obtained in the exercise of a data subject access right include a record obtained at any time in the exercise of a right under section 7 of the 1998 Act.
- (2) In section 177 of this Act, references to a “relevant record” include a record which does not fall within the definition in Schedule 17 to this Act (read with sub-paragraph (1)) but which, immediately before the relevant time, was a “relevant record” for the purposes of section 56 of the 1998 Act.
- (3) In this paragraph, “the relevant time” means the time when the repeal of section 56 of the 1998 Act comes into force.

Avoidance under this Act of certain contractual terms relating to health records

- 11 In section 178 of this Act, references to a record obtained in the exercise of a data subject access right include a record obtained at any time in the exercise of a right under section 7 of the 1998 Act.

PART 3

THE GDPR AND PART 2 OF THIS ACT

Exemptions from the GDPR: restrictions of rules in Articles 13 to 15 of the GDPR

- 12 In paragraph 20(2) of Schedule 2 to this Act (self-incrimination), the reference to an offence under this Act includes an offence under the 1998 Act or the 1984 Act.

Manual unstructured data held by FOI public authorities

- 13 Until the first regulations under section 24(8) of this Act come into force, “the appropriate maximum” for the purposes of that section is—
- (a) where the controller is a public authority listed in Part 1 of Schedule 1 to the Freedom of Information Act 2000, £600, and
- (b) otherwise, £450.

PART 4

LAW ENFORCEMENT AND INTELLIGENCE SERVICES PROCESSING

Logging

- 14 (1) In relation to an automated processing system set up before 6 May 2016, subsections (1) to (3) of section 62 of this Act do not apply if and to the extent that compliance with them would involve disproportionate effort.
- (2) Sub-paragraph (1) ceases to have effect at the beginning of 6 May 2023.

Regulation 50 of the 2014 Regulations (disapplication of the 1998 Act)

- 15 Nothing in this Schedule, read with the revocation of regulation 50 of the 2014 Regulations, has the effect of applying a provision of the 1998 Act to the processing of personal data to which Part 4 of the 2014 Regulations applies in a case in which that provision did not apply before the revocation of that regulation.

Data Protection Bill [Lords], continued
Maximum fee for data subject access requests to intelligence services

- 16 Until the first regulations under section 94(4)(b) of this Act come into force, the maximum amount of a fee that may be required by a controller under that section is £10.

PART 5

NATIONAL SECURITY CERTIFICATES

National security certificates: processing of personal data under the 1998 Act

- 17 (1) The repeal of section 28(2) to (12) of the 1998 Act does not affect the application of those provisions after the relevant time with respect to the processing of personal data to which the 1998 Act (including as it has effect by virtue of this Schedule) applies.
- (2) A certificate issued under section 28(2) of the 1998 Act continues to have effect after the relevant time with respect to the processing of personal data to which the 1998 Act (including as it has effect by virtue of this Schedule) applies.
- (3) Where a certificate continues to have effect under sub-paragraph (2) after the relevant time, it may be revoked or quashed in accordance with section 28 of the 1998 Act after the relevant time.
- (4) In this paragraph, “the relevant time” means the time when the repeal of section 28 of the 1998 Act comes into force.

National security certificates: processing of personal data under the 2018 Act

- 18 (1) This paragraph applies to a certificate issued under section 28(2) of the 1998 Act (an “old certificate”) which has effect immediately before the relevant time.
- (2) If and to the extent that the old certificate provides protection with respect to personal data which corresponds to protection that could be provided by a certificate issued under section 27, 79 or 111 of this Act, the old certificate also has effect to that extent after the relevant time as if—
- (a) it were a certificate issued under one or more of sections 27, 79 and 111 (as the case may be),
 - (b) it provided protection in respect of that personal data in relation to the corresponding provisions of this Act or the applied GDPR, and
 - (c) where it has effect as a certificate issued under section 79, it certified that each restriction in question is a necessary and proportionate measure to protect national security.
- (3) Where an old certificate also has effect as if it were a certificate issued under one or more of sections 27, 79 and 111, that section has, or those sections have, effect accordingly in relation to the certificate.
- (4) Where an old certificate has an extended effect because of sub-paragraph (2), section 129 of this Act does not apply in relation to it.
- (5) An old certificate that has an extended effect because of sub-paragraph (2) provides protection only with respect to the processing of personal data that occurs during the period of 1 year beginning with the relevant time (and a Minister of the Crown may curtail that protection by wholly or partly revoking the old certificate).
- (6) For the purposes of this paragraph—
- (a) a reference to the protection provided by a certificate issued under—
 - (i) section 28(2) of the 1998 Act, or

Data Protection Bill [Lords], continued

- (ii) section 27, 79 or 111 of this Act, is a reference to the effect of the evidence that is provided by the certificate;
 - (b) protection provided by a certificate under section 28(2) of the 1998 Act is to be regarded as corresponding to protection that could be provided by a certificate under section 27, 79 or 111 of this Act where, in respect of provision in the 1998 Act to which the certificate under section 28(2) relates, there is corresponding provision in this Act or the applied GDPR to which a certificate under section 27, 79 or 111 could relate.
- (7) In this paragraph, “the relevant time” means the time when the repeal of section 28 of the 1998 Act comes into force.

PART 6

THE INFORMATION COMMISSIONER

Appointment etc

- 19 (1) On and after the relevant day, the individual who was the Commissioner immediately before that day—
- (a) continues to be the Commissioner,
 - (b) is to be treated as having been appointed under Schedule 12 to this Act, and
 - (c) holds office for the period—
 - (i) beginning with the relevant day, and
 - (ii) lasting for 7 years less a period equal to the individual’s pre-commencement term.
- (2) On and after the relevant day, a resolution passed by the House of Commons for the purposes of paragraph 3 of Schedule 5 to the 1998 Act (salary and pension of Commissioner), and not superseded before that day, is to be treated as having been passed for the purposes of paragraph 4 of Schedule 12 to this Act.
- (3) In this paragraph—
- “pre-commencement term”, in relation to an individual, means the period during which the individual was the Commissioner before the relevant day;
 - “the relevant day” means the day on which Schedule 12 to this Act comes into force.

Accounts

- 20 (1) The repeal of paragraph 10 of Schedule 5 to the 1998 Act does not affect the duties of the Commissioner and the Comptroller and Auditor General under that paragraph in respect of the Commissioner’s statement of account for the financial year beginning with 1 April 2017.
- (2) The Commissioner’s duty under paragraph 11 of Schedule 12 to this Act to prepare a statement of account for each financial year includes a duty to do so for the financial year beginning with 1 April 2018.

Annual report

- 21 (1) The repeal of section 52(1) of the 1998 Act (annual report) does not affect the Commissioner’s duty under that subsection to produce a general report on the

Data Protection Bill [Lords], continued

exercise of the Commissioner's functions under the 1998 Act during the period of 1 year beginning with 1 April 2017 and to lay it before Parliament.

- (2) The repeal of section 49 of the Freedom of Information Act 2000 (annual report) does not affect the Commissioner's duty under that section to produce a general report on the exercise of the Commissioner's functions under that Act during the period of 1 year beginning with 1 April 2017 and to lay it before Parliament.
- (3) The first report produced by the Commissioner under section 138 of this Act must relate to the period of 1 year beginning with 1 April 2018.

Fees etc received by the Commissioner

- 22 (1) The repeal of Schedule 5 to the 1998 Act (Information Commissioner) does not affect the application of paragraph 9 of that Schedule after the relevant time to amounts received by the Commissioner before the relevant time.
- (2) In this paragraph, "the relevant time" means the time when the repeal of Schedule 5 to the 1998 Act comes into force.
- 23 Paragraph 10 of Schedule 12 to this Act applies only to amounts received by the Commissioner after the time when that Schedule comes into force.

Functions in connection with the Data Protection Convention

- 24 (1) The repeal of section 54(2) of the 1998 Act (functions to be discharged by the Commissioner for the purposes of Article 13 of the Data Protection Convention), and the revocation of the Data Protection (Functions of Designated Authority) Order 2000 (S.I. 2000/186), do not affect the application of articles 1 to 5 of that Order after the relevant time in relation to a request described in those articles which was made before that time.
- (2) The references in paragraph 9 of Schedule 13 to this Act (Data Protection Convention: restrictions on use of information) to requests made or received by the Commissioner under paragraph 6 or 7 of that Schedule include a request made or received by the Commissioner under article 3 or 4 of the Data Protection (Functions of Designated Authority) Order 2000 (S.I. 2000/186).
- (3) The repeal of section 54(7) of the 1998 Act (duty to notify the European Commission of certain approvals and authorisations) does not affect the application of that provision after the relevant time in relation to an approval or authorisation granted before the relevant time.
- (4) In this paragraph, "the relevant time" means the time when the repeal of section 54 of the 1998 Act comes into force.

Co-operation with the European Commission: transfers of personal data outside the EEA

- 25 (1) The repeal of section 54(3) of the 1998 Act (co-operation by the Commissioner with the European Commission etc), and the revocation of the Data Protection (International Co-operation) Order 2000 (S.I. 2000/190), do not affect the application of articles 1 to 4 of that Order after the relevant time in relation to transfers that took place before the relevant time.
- (2) In this paragraph—
 - "the relevant time" means the time when the repeal of section 54 of the 1998 Act comes into force;
 - "transfer" has the meaning given in article 2 of the Data Protection (International Co-operation) Order 2000 (S.I. 2000/190).

Data Protection Bill [Lords], continued

Charges payable to the Commissioner by controllers

- 26 (1) The Data Protection (Charges and Information) Regulations 2018 (S.I. 2018/480) have effect after the relevant time (until revoked) as if they were made under section 136 of this Act.
- (2) In this paragraph, “the relevant time” means the time when section 136 of this Act comes into force.

Requests for assessment

- 27 (1) The repeal of section 42 of the 1998 Act (requests for assessment) does not affect the application of that section after the relevant time in a case in which the Commissioner received a request under that section before the relevant time, subject to sub-paragraph (2).
- (2) The Commissioner is only required to make an assessment of acts and omissions that took place before the relevant time.
- (3) In this paragraph, “the relevant time” means the time when the repeal of section 42 of the 1998 Act comes into force.

Codes of practice

- 28 (1) The repeal of section 52E of the 1998 Act (effect of codes of practice) does not affect the application of that section after the relevant time in relation to legal proceedings or to the exercise of the Commissioner’s functions under the 1998 Act as it has effect by virtue of this Schedule.
- (2) In section 52E of the 1998 Act, as it has effect by virtue of this paragraph, the references to the 1998 Act include that Act as it has effect by virtue of this Schedule.
- (3) For the purposes of subsection (3) of that section, as it has effect by virtue of this paragraph, the data-sharing code and direct marketing code in force immediately before the relevant time are to be treated as having continued in force after that time.
- (4) In this paragraph—
 “the data-sharing code” and “the direct marketing code” mean the codes respectively prepared under sections 52A and 52AA of the 1998 Act and issued under section 52B(5) of that Act;
 “the relevant time” means the time when the repeal of section 52E of the 1998 Act comes into force.

PART 7

ENFORCEMENT ETC UNDER THE 1998 ACT

Interpretation of this Part

- 29 (1) In this Part of this Schedule, references to contravention of the sixth data protection principle sections are to relevant contravention of any of sections 7, 10, 11 or 12 of the 1998 Act, as they continue to have effect by virtue of this Schedule after their repeal (and references to compliance with the sixth data protection principle sections are to be read accordingly).
- (2) In sub-paragraph (1), “relevant contravention” means contravention in a manner described in paragraph 8 of Part 2 of Schedule 1 to the 1998 Act (sixth data protection principle).

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

- 30 (1) The repeal of section 43 of the 1998 Act (information notices) does not affect the application of that section after the relevant time in a case in which—
- (a) the Commissioner served a notice under that section before the relevant time (and did not cancel it before that time), or
 - (b) the Commissioner requires information after the relevant time for the purposes of—
 - (i) responding to a request made under section 42 of the 1998 Act before that time,
 - (ii) determining whether a data controller complied with the old data protection principles before that time, or
 - (iii) determining whether a data controller complied with the sixth data protection principle sections after that time.
- (2) In section 43 of the 1998 Act, as it has effect by virtue of this paragraph—
- (a) the reference to an offence under section 47 of the 1998 Act includes an offence under section 143 of this Act, and
 - (b) the references to an offence under the 1998 Act include an offence under this Act.
- (3) In this paragraph, “the relevant time” means the time when the repeal of section 43 of the 1998 Act comes into force.

Special information notices

- 31 (1) The repeal of section 44 of the 1998 Act (special information notices) does not affect the application of that section after the relevant time in a case in which—
- (a) the Commissioner served a notice under that section before the relevant time (and did not cancel it before that time), or
 - (b) the Commissioner requires information after the relevant time for the purposes of—
 - (i) responding to a request made under section 42 of the 1998 Act before that time, or
 - (ii) ascertaining whether section 44(2)(a) or (b) of the 1998 Act was satisfied before that time.
- (2) In section 44 of the 1998 Act, as it has effect by virtue of this paragraph—
- (a) the reference to an offence under section 47 of the 1998 Act includes an offence under section 143 of this Act, and
 - (b) the references to an offence under the 1998 Act include an offence under this Act.
- (3) In this paragraph, “the relevant time” means the time when the repeal of section 44 of the 1998 Act comes into force.

Assessment notices

- 32 (1) The repeal of sections 41A and 41B of the 1998 Act (assessment notices) does not affect the application of those sections after the relevant time in a case in which—
- (a) the Commissioner served a notice under section 41A of the 1998 Act before the relevant time (and did not cancel it before that time), or
 - (b) the Commissioner considers it appropriate, after the relevant time, to investigate—
 - (i) whether a data controller complied with the old data protection principles before that time, or

Data Protection Bill [Lords], continued

- (ii) whether a data controller complied with the sixth data protection principle sections after that time.
- (2) The revocation of the Data Protection (Assessment Notices) (Designation of National Health Service Bodies) Order 2014 (S.I. 2014/3282), and the repeals mentioned in sub-paragraph (1), do not affect the application of that Order in a case described in sub-paragraph (1).
- (3) Sub-paragraph (1) does not enable the Secretary of State, after the relevant time, to make an order under section 41A(2)(b) or (c) of the 1998 Act (data controllers on whom an assessment notice may be served) designating a public authority or person for the purposes of that section.
- (4) Section 41A of the 1998 Act, as it has effect by virtue of sub-paragraph (1), has effect as if subsections (8) and (11) (duty to review designation orders) were omitted.
- (5) The repeal of section 41C of the 1998 Act (code of practice about assessment notice) does not affect the application, after the relevant time, of the code issued under that section and in force immediately before the relevant time in relation to the exercise of the Commissioner's functions under and in connection with section 41A of the 1998 Act, as it has effect by virtue of sub-paragraph (1).
- (6) In this paragraph, "the relevant time" means the time when the repeal of section 41A of the 1998 Act comes into force.

Enforcement notices

- 33 (1) The repeal of sections 40 and 41 of the 1998 Act (enforcement notices) does not affect the application of those sections after the relevant time in a case in which—
 - (a) the Commissioner served a notice under section 40 of the 1998 Act before the relevant time (and did not cancel it before that time), or
 - (b) the Commissioner is satisfied, after that time, that a data controller —
 - (i) contravened the old data protection principles before that time, or
 - (ii) contravened the sixth data protection principle sections after that time.
- (2) In this paragraph, "the relevant time" means the time when the repeal of section 40 of the 1998 Act comes into force.

Determination by Commissioner as to the special purposes

- 34 (1) The repeal of section 45 of the 1998 Act (determination by Commissioner as to the special purposes) does not affect the application of that section after the relevant time in a case in which—
 - (a) the Commissioner made a determination under that section before the relevant time, or
 - (b) the Commissioner considers it appropriate, after the relevant time, to make a determination under that section.
- (2) In this paragraph, "the relevant time" means the time when the repeal of section 45 of the 1998 Act comes into force.

Data Protection Bill [Lords], continued
Restriction on enforcement in case of processing for the special purposes

- 35 (1) The repeal of section 46 of the 1998 Act (restriction on enforcement in case of processing for the special purposes) does not affect the application of that section after the relevant time in relation to an enforcement notice or information notice served under the 1998 Act—
- (a) before the relevant time, or
 - (b) after the relevant time in reliance on this Schedule.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 46 of the 1998 Act comes into force.

Offences

- 36 (1) The repeal of sections 47, 60 and 61 of the 1998 Act (offences of failing to comply with certain notices and of providing false information etc in response to a notice) does not affect the application of those sections after the relevant time in connection with an information notice, special information notice or enforcement notice served under Part 5 of the 1998 Act—
- (a) before the relevant time, or
 - (b) after that time in reliance on this Schedule.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 47 of the 1998 Act comes into force.

Powers of entry

- 37 (1) The repeal of sections 50, 60 and 61 of, and Schedule 9 to, the 1998 Act (powers of entry) does not affect the application of those provisions after the relevant time in a case in which—
- (a) a warrant issued under that Schedule was in force immediately before the relevant time,
 - (b) before the relevant time, the Commissioner supplied information on oath for the purposes of obtaining a warrant under that Schedule but that had not been considered by a circuit judge or a District Judge (Magistrates’ Courts), or
 - (c) after the relevant time, the Commissioner supplies information on oath to a circuit judge or a District Judge (Magistrates’ Courts) in respect of—
 - (i) a contravention of the old data protection principles before the relevant time;
 - (ii) a contravention of the sixth data protection principle sections after the relevant time;
 - (iii) the commission of an offence under a provision of the 1998 Act (including as the provision has effect by virtue of this Schedule);
 - (iv) a failure to comply with a requirement imposed by an assessment notice issued under section 41A the 1998 Act (including as it has effect by virtue of this Schedule).
- (2) In paragraph 16 of Schedule 9 to the 1998 Act, as it has effect by virtue of this paragraph, the reference to an offence under paragraph 12 of that Schedule includes an offence under paragraph 15 of Schedule 15 to this Act.
- (3) In this paragraph, “the relevant time” means the time when the repeal of Schedule 9 to the 1998 Act comes into force.

Data Protection Bill [Lords], continued

- (4) Paragraphs 14 and 15 of Schedule 9 to the 1998 Act (application of that Schedule to Scotland and Northern Ireland) apply for the purposes of this paragraph as they apply for the purposes of that Schedule.

Monetary penalties

- 38 (1) The repeal of sections 55A, 55B, 55D and 55E of the 1998 Act (monetary penalties) does not affect the application of those provisions after the relevant time in a case in which—
- (a) the Commissioner served a monetary penalty notice under section 55A of the 1998 Act before the relevant time,
 - (b) the Commissioner served a notice of intent under section 55B of the 1998 Act before the relevant time, or
 - (c) the Commissioner considers it appropriate, after the relevant time, to serve a notice mentioned in paragraph (a) or (b) in respect of—
 - (i) a contravention of section 4(4) of the 1998 Act before the relevant time, or
 - (ii) a contravention of the sixth data protection principle sections after the relevant time.
- (2) The revocation of the relevant subordinate legislation, and the repeals mentioned in sub-paragraph (1), do not affect the application of the relevant subordinate legislation (or of provisions of the 1998 Act applied by them) after the relevant time in a case described in sub-paragraph (1).
- (3) Guidance issued under section 55C of the 1998 Act (guidance about monetary penalty notices) which is in force immediately before the relevant time continues in force after that time for the purposes of the Commissioner's exercise of functions under sections 55A and 55B of the 1998 Act as they have effect by virtue of this paragraph.
- (4) In this paragraph—
- “the relevant subordinate legislation” means—
- (a) the Data Protection (Monetary Penalties) (Maximum Penalty and Notices) Regulations 2010 (S.I. 2010/31);
 - (b) the Data Protection (Monetary Penalties) Order 2010 (S.I. 2010/910);
- “the relevant time” means the time when the repeal of section 55A of the 1998 Act comes into force.

Appeals

- 39 (1) The repeal of sections 48 and 49 of the 1998 Act (appeals) does not affect the application of those sections after the relevant time in relation to a notice served under the 1998 Act or a determination made under section 45 of that Act—
- (a) before the relevant time, or
 - (b) after that time in reliance on this Schedule.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 48 of the 1998 Act comes into force.

Exemptions

- 40 (1) The repeal of section 28 of the 1998 Act (national security) does not affect the application of that section after the relevant time for the purposes of a provision of Part 5 of the 1998 Act as it has effect after that time by virtue of the preceding paragraphs of this Part of this Schedule.

Data Protection Bill [Lords], continued

- (2) In this paragraph, “the relevant time” means the time when the repeal of the provision of Part 5 of the 1998 Act in question comes into force.
- (3) As regards certificates issued under section 28(2) of the 1998 Act, see Part 5 of this Schedule.

Tribunal Procedure Rules

- 41
- (1) The repeal of paragraph 7 of Schedule 6 to the 1998 Act (Tribunal Procedure Rules) does not affect the application of that paragraph, or of rules made under that paragraph, after the relevant time in relation to the exercise of rights of appeal conferred by section 28 or 48 of the 1998 Act, as they have effect by virtue of this Schedule.
 - (2) Part 3 of Schedule 18 to this Act does not apply for the purposes of Tribunal Procedure Rules made under paragraph 7(1)(a) of Schedule 6 to the 1998 Act as they apply, after the relevant time, in relation to the exercise of rights of appeal described in sub-paragraph (1).
 - (3) In this paragraph, “the relevant time” means the time when the repeal of paragraph 7 of Schedule 6 to the 1998 Act comes into force.

Obstruction etc

- 42
- (1) The repeal of paragraph 8 of Schedule 6 to the 1998 Act (obstruction etc in proceedings before the Tribunal) does not affect the application of that paragraph after the relevant time in relation to an act or omission in relation to proceedings under the 1998 Act (including as it has effect by virtue of this Schedule).
 - (2) In this paragraph, “the relevant time” means the time when the repeal of paragraph 8 of Schedule 6 to the 1998 Act comes into force.

Enforcement etc under the 2014 Regulations

- 43
- (1) The references in the preceding paragraphs of this Part of this Schedule to provisions of the 1998 Act include those provisions as applied, with modifications, by regulation 51 of the 2014 Regulations (other functions of the Commissioner).
 - (2) The revocation of regulation 51 of the 2014 Regulations does not affect the application of those provisions of the 1998 Act (as so applied) as described in those paragraphs.

PART 8

ENFORCEMENT ETC UNDER THIS ACT

Information notices

- 44
- In section 142 of this Act—
- (a) the reference to an offence under section 143 of this Act includes an offence under section 47 of the 1998 Act (including as it has effect by virtue of this Schedule), and
 - (b) the references to an offence under this Act include an offence under the 1998 Act (including as it has effect by virtue of this Schedule) or the 1984 Act.

Data Protection Bill [Lords], continued

Powers of entry

- 45 In paragraph 16 of Schedule 15 to this Act (powers of entry: self-incrimination), the reference to an offence under paragraph 15 of that Schedule includes an offence under paragraph 12 of Schedule 9 to the 1998 Act (including as it has effect by virtue of this Schedule).

Tribunal Procedure Rules

- 46 (1) Tribunal Procedure Rules made under paragraph 7(1)(a) of Schedule 6 to the 1998 Act (appeal rights under the 1998 Act) and in force immediately before the relevant time have effect after that time as if they were also made under section 194 of this Act.
- (2) In this paragraph, “the relevant time” means the time when the repeal of paragraph 7(1)(a) of Schedule 6 to the 1998 Act comes into force.

PART 9

OTHER ENACTMENTS

Powers to disclose information to the Commissioner

- 47 (1) The following provisions (as amended by Schedule 18 to this Act) have effect after the relevant time as if the matters they refer to included a matter in respect of which the Commissioner could exercise a power conferred by a provision of Part 5 of the 1998 Act, as it has effect by virtue of this Schedule—
- (a) section 11AA(1)(a) of the Parliamentary Commissioner Act 1967 (disclosure of information by Parliamentary Commissioner);
 - (b) sections 33A(1)(a) and 34O(1)(a) of the Local Government Act 1974 (disclosure of information by Local Commissioner);
 - (c) section 18A(1)(a) of the Health Service Commissioners Act 1993 (disclosure of information by Health Service Commissioner);
 - (d) paragraph 1 of the entry for the Information Commissioner in Schedule 5 to the Scottish Public Services Ombudsman Act 2002 (asp 11) (disclosure of information by the Ombudsman);
 - (e) section 34X(3)(a) of the Public Services Ombudsman (Wales) Act 2005 (disclosure of information by the Ombudsman);
 - (f) section 18(6)(a) of the Commissioner for Older People (Wales) Act 2006 (disclosure of information by the Commissioner);
 - (g) section 22(3)(a) of the Welsh Language (Wales) Measure 2011 (nawm 1) (disclosure of information by the Welsh Language Commissioner);
 - (h) section 49(3)(a) of the Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4 (N.I.)) (disclosure of information by the Ombudsman);
 - (i) section 44(3)(a) of the Justice Act (Northern Ireland) 2016 (c. 21 (N.I.)) (disclosure of information by the Prison Ombudsman for Northern Ireland).
- (2) The following provisions (as amended by Schedule 18 to this Act) have effect after the relevant time as if the offences they refer to included an offence under any provision of the 1998 Act other than paragraph 12 of Schedule 9 to that Act (obstruction of execution of warrant)—
- (a) section 11AA(1)(b) of the Parliamentary Commissioner Act 1967;
 - (b) sections 33A(1)(b) and 34O(1)(b) of the Local Government Act 1974;
 - (c) section 18A(1)(b) of the Health Service Commissioners Act 1993;

Data Protection Bill [Lords], continued

- (d) paragraph 2 of the entry for the Information Commissioner in Schedule 5 to the Scottish Public Services Ombudsman Act 2002 (asp 11);
 - (e) section 34X(5) of the Public Services Ombudsman (Wales) Act 2005 (disclosure of information by the Ombudsman);
 - (f) section 18(8) of the Commissioner for Older People (Wales) Act 2006;
 - (g) section 22(5) of the Welsh Language (Wales) Measure 2011 (nawm 1);
 - (h) section 49(5) of the Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4 (N.I.));
 - (i) section 44(3)(b) of the Justice Act (Northern Ireland) 2016 (c. 21 (N.I.)).
- (3) In this paragraph, “the relevant time”, in relation to a provision of a section or Schedule listed in sub-paragraph (1) or (2), means the time when the amendment of the section or Schedule by Schedule 18 to this Act comes into force.

Codes etc required to be consistent with the Commissioner’s data-sharing code

- 48 (1) This paragraph applies in relation to the code of practice issued under each of the following provisions—
- (a) section 19AC of the Registration Service Act 1953 (code of practice about disclosure of information by civil registration officials);
 - (b) section 43 of the Digital Economy Act 2017 (code of practice about disclosure of information to improve public service delivery);
 - (c) section 52 of that Act (code of practice about disclosure of information to reduce debt owed to the public sector);
 - (d) section 60 of that Act (code of practice about disclosure of information to combat fraud against the public sector);
 - (e) section 70 of that Act (code of practice about disclosure of information for research purposes).
- (2) During the relevant period, the code of practice does not have effect to the extent that it is inconsistent with the code of practice prepared under section 121 of this Act (data-sharing code) and issued under section 124(4) of this Act (as altered or replaced from time to time).
- (3) In this paragraph, “the relevant period”, in relation to a code issued under a section mentioned in sub-paragraph (1), means the period—
- (a) beginning when the amendments of that section in Schedule 18 to this Act come into force, and
 - (b) ending when the code is first reissued under that section.
- 49 (1) This paragraph applies in relation to the original statement published under section 45E of the Statistics and Registration Service Act 2007 (statement of principles and procedures in connection with access to information by the Statistics Board).
- (2) During the relevant period, the statement does not have effect to the extent that it is inconsistent with the code of practice prepared under section 121 of this Act (data-sharing code) and issued under section 124(4) of this Act (as altered or replaced from time to time).
- (3) In this paragraph, “the relevant period” means the period—
- (a) beginning when the amendments of section 45E of the Statistics and Registration Service Act 2007 in Schedule 18 to this Act come into force, and

Data Protection Bill [Lords], continued

- (b) ending when the first revised statement is published under that section.

Consumer Credit Act 1974

- 50 In section 159(1)(a) of the Consumer Credit Act 1974 (correction of wrong information) (as amended by Schedule 18 to this Act), the reference to information given under Article 15(1) to (3) of the GDPR includes information given at any time under section 7 of the 1998 Act.

Freedom of Information Act 2000

- 51 Paragraphs 52 to 55 make provision about the Freedom of Information Act 2000 (“the 2000 Act”).
- 52 (1) This paragraph applies where a request for information was made to a public authority under the 2000 Act before the relevant time.
- (2) To the extent that the request is dealt with after the relevant time, the amendments of sections 2 and 40 of the 2000 Act in Schedule 18 to this Act have effect for the purposes of determining whether the authority deals with the request in accordance with Part 1 of the 2000 Act.
- (3) To the extent that the request was dealt with before the relevant time—
- (a) the amendments of sections 2 and 40 of the 2000 Act in Schedule 18 to this Act do not have effect for the purposes of determining whether the authority dealt with the request in accordance with Part 1 of the 2000 Act, but
- (b) the powers of the Commissioner and the Tribunal, on an application or appeal under the 2000 Act, do not include power to require the authority to take steps which it would not be required to take in order to comply with Part 1 of the 2000 Act as amended by Schedule 18 to this Act.
- (4) In this paragraph—
- “public authority” has the same meaning as in the 2000 Act;
- “the relevant time” means the time when the amendments of sections 2 and 40 of the 2000 Act in Schedule 18 to this Act come into force.
- 53 (1) Tribunal Procedure Rules made under paragraph 7(1)(b) of Schedule 6 to the 1998 Act (appeal rights under the 2000 Act) and in force immediately before the relevant time have effect after that time as if they were also made under section 61 of the 2000 Act (as inserted by Schedule 18 to this Act).
- (2) In this paragraph, “the relevant time” means the time when the repeal of paragraph 7(1)(b) of Schedule 6 to the 1998 Act comes into force.
- 54 (1) The repeal of paragraph 8 of Schedule 6 to the 1998 Act (obstruction etc in proceedings before the Tribunal) does not affect the application of that paragraph after the relevant time in relation to an act or omission before that time in relation to an appeal under the 2000 Act.
- (2) In this paragraph, “the relevant time” means the time when the repeal of paragraph 8 of Schedule 6 to the 1998 Act comes into force.
- 55 (1) The amendment of section 77 of the 2000 Act in Schedule 18 to this Act (offence of altering etc record with intent to prevent disclosure: omission of reference to section 7 of the 1998 Act) does not affect the application of that section after the relevant time in relation to a case in which—
- (a) the request for information mentioned in section 77(1) of the 2000 Act was made before the relevant time, and
- (b) when the request was made, section 77(1)(b) of the 2000 Act was satisfied by virtue of section 7 of the 1998 Act.

Data Protection Bill [Lords], continued

- (2) In this paragraph, “the relevant time” means the time when the repeal of section 7 of the 1998 Act comes into force.

Freedom of Information (Scotland) Act 2002

- 56 (1) This paragraph applies where a request for information was made to a Scottish public authority under the Freedom of Information (Scotland) Act 2002 (“the 2002 Act”) before the relevant time.
- (2) To the extent that the request is dealt with after the relevant time, the amendments of the 2002 Act in Schedule 18 to this Act have effect for the purposes of determining whether the authority deals with the request in accordance with Part 1 of the 2002 Act.
- (3) To the extent that the request was dealt with before the relevant time—
- (a) the amendments of the 2002 Act in Schedule 18 to this Act do not have effect for the purposes of determining whether the authority dealt with the request in accordance with Part 1 of the 2002 Act, but
 - (b) the powers of the Scottish Information Commissioner and the Court of Session, on an application or appeal under the 2002 Act, do not include power to require the authority to take steps which it would not be required to take in order to comply with Part 1 of the 2002 Act as amended by Schedule 18 to this Act.
- (4) In this paragraph—
- “Scottish public authority” has the same meaning as in the 2002 Act;
- “the relevant time” means the time when the amendments of the 2002 Act in Schedule 18 to this Act come into force.

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

- 57 Until the first regulations under Article 5(4)(a) of the Access to Health Records (Northern Ireland) Order 1993 (as amended by Schedule 18 to this Act) come into force, the maximum amount of a fee that may be required for giving access under that Article is £10.

Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2450)

- 58 (1) The repeal of a provision of the 1998 Act does not affect its operation for the purposes of the Privacy and Electronic Communications (EC Directive) Regulations 2003 (“the PECR 2003”) (see regulations 2, 31 and 31B of, and Schedule 1 to, those Regulations).
- (2) Where subordinate legislation made under a provision of the 1998 Act is in force immediately before the repeal of that provision, neither the revocation of the subordinate legislation nor the repeal of the provision of the 1998 Act affect the application of the subordinate legislation for the purposes of the PECR 2003 after that time.
- (3) Part 3 of Schedule 18 to this Act (modifications) does not have effect in relation to the PECR 2003.
- (4) Part 7 of this Schedule does not have effect in relation to the provisions of the 1998 Act as applied by the PECR 2003.

Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9))

- 59 Part 3 of Schedule 18 to this Act (modifications) does not have effect in relation to the reference to an accessible record within the meaning of section

Data Protection Bill [Lords], continued

68 of the 1998 Act in regulation 43 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.

Environmental Information Regulations 2004 (S.I. 2004/3391)

- 60 (1) This paragraph applies where a request for information was made to a public authority under the Environmental Information Regulations 2004 (“the 2004 Regulations”) before the relevant time.
- (2) To the extent that the request is dealt with after the relevant time, the amendments of the 2004 Regulations in Schedule 18 to this Act have effect for the purposes of determining whether the authority deals with the request in accordance with Parts 2 and 3 of those Regulations.
- (3) To the extent that the request was dealt with before the relevant time—
- (a) the amendments of the 2004 Regulations in Schedule 18 to this Act do not have effect for the purposes of determining whether the authority dealt with the request in accordance with Parts 2 and 3 of those Regulations, but
 - (b) the powers of the Commissioner and the Tribunal, on an application or appeal under the 2000 Act (as applied by the 2004 Regulations), do not include power to require the authority to take steps which it would not be required to take in order to comply with Parts 2 and 3 of those Regulations as amended by Schedule 18 to this Act.
- (4) In this paragraph—
- “public authority” has the same meaning as in the 2004 Regulations;
 - “the relevant time” means the time when the amendments of the 2004 Regulations in Schedule 18 to this Act come into force.

Environmental Information (Scotland) Regulations 2004 (S.S.I. 2004/520)

- 61 (1) This paragraph applies where a request for information was made to a Scottish public authority under the Environmental Information (Scotland) Regulations 2004 (“the 2004 Regulations”) before the relevant time.
- (2) To the extent that the request is dealt with after the relevant time, the amendments of the 2004 Regulations in Schedule 18 to this Act have effect for the purposes of determining whether the authority deals with the request in accordance with those Regulations.
- (3) To the extent that the request was dealt with before the relevant time—
- (a) the amendments of the 2004 Regulations in Schedule 18 to this Act do not have effect for the purposes of determining whether the authority dealt with the request in accordance with those Regulations, but
 - (b) the powers of the Scottish Information Commissioner and the Court of Session, on an application or appeal under the 2002 Act (as applied by the 2004 Regulations), do not include power to require the authority to take steps which it would not be required to take in order to comply with those Regulations as amended by Schedule 18 to this Act.
- (4) In this paragraph—
- “Scottish public authority” has the same meaning as in the 2004 Regulations;
 - “the relevant time” means the time when the amendments of the 2004 Regulations in Schedule 18 to this Act come into force.”

Member’s explanatory statement

This amendment inserts a Schedule making transitional, transitory and saving provision in connection with the coming into force of the Bill, including provision about subject access requests

Data Protection Bill [Lords], continued

(see Part 2 of the Schedule) and about the Information Commissioner's enforcement powers (see Parts 7 and 8 of the Schedule).

Tom Watson
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 the 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

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— Control

Every data subject is entitled to know the purpose for which personal data is being processed. Data controllers should not deliberately extend the gathering of personal data solely for their own purposes. Government, corporations, public authorities and other data controllers must obtain meaningful consent for the use of people’s personal data. Every data subject has the right to own curate, move, revise or review their personal data.

Article 8— 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 9— 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 10— 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 11 — 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 set out in section 123 of this Act.”

Data Protection Bill [Lords], continued

Secretary Matt Hancock

72

Schedule 1, page 134, line 11, at end insert —

“() a mayor for the area of a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;”

Member’s explanatory statement

This amendment adds mayors of combined authorities in England to the list of elected representatives for the purposes of paragraphs 23 and 24 of Schedule 1, which authorise certain processing of special categories of personal data by such representatives.

Secretary Matt Hancock

73

Schedule 1, page 134, line 19, at end insert —

“() a police and crime commissioner.”

Member’s explanatory statement

This amendment adds police and crime commissioners established under section 1 of the Police Reform and Social Responsibility Act 2011 to the list of elected representatives for the purposes of paragraphs 23 and 24 of Schedule 1, which authorise certain processing of special categories of personal data by such representatives.

Caroline Lucas

16

Schedule 2, page 140, line 15, at end insert—

“(1A) The exemption in sub-paragraph (1) may not be invoked in relation to offences under—

- (a) sections 24, 24A, 24B or 24C of the Immigration Act 1971,
- (b) section 21 of the Immigration, Asylum and Nationality Act 2006, or
- (c) sections 33A and 33B of the Immigration Act 2014.”

Tom Watson
Liam Byrne
Louise Haigh
Chris Elmore
Sir Edward Davey
Layla Moran

Tim Farron
Jamie Stone
Stephen Lloyd
Stuart C. McDonald

Christine Jardine
Jo Swinson
Wera Hobhouse
Dr Paul Williams

Caroline Lucas
Tom Brake
Mr Alistair Carmichael

15

Schedule 2, page 141, line 17, leave out paragraph 4

Secretary Matt Hancock

141

Schedule 2, page 141, line 39, leave out from “(vi)” to end of line 44

Member’s explanatory statement

Paragraph 4(2) of Schedule 2 lists provisions of the GDPR which do not apply to the extent that their application would be likely to prejudice certain matters relating to immigration. This amendment removes Articles 5(1)(a) and (b) from the list (except so far as they correspond to

Data Protection Bill [Lords], continued

rights and obligations provided for in provisions mentioned in paragraph 4(2)(i) to (vi), see paragraph 4(2)(vii).

Secretary Matt Hancock

Schedule 2, page 141, line 48, at end insert “and, subject to sub-paragraph (2)(vii) of this paragraph, the provisions of Article 5 listed in paragraph 1(b).”
Member’s explanatory statement
This amendment is consequential on Amendment 141.

142

Brendan O’Hara
 Stuart C. McDonald

Schedule 2, page 152, line 24, leave out paragraph 19 and insert—
 “19 The listed GDPR provisions do not apply to personal data that consists of information which is protected by legal professional privilege or the duty of confidentiality.”
Member’s explanatory statement
This amendment would ensure that both legal professional privilege and confidentiality are recognised within the legislation.

10

Secretary Matt Hancock

Schedule 2, page 152, line 27, at end insert “, or
 (b) information in respect of which a duty of confidentiality is owed by a professional legal adviser to a client of the adviser.”
Member’s explanatory statement
This amendment extends the legal professional privilege exemption in Part 4 of Schedule 2 to include information in respect of which a duty of confidentiality is owed by a professional legal adviser to a client of the adviser. See also Amendment 140.

139

Secretary Matt Hancock

Schedule 6, page 177, line 31, leave out from beginning to end of line 3 on page 178 and insert—
 “Subsections (1), (2) and (7) of section 198 of the 2018 Act have effect for the purposes of this Regulation as they have effect for the purposes of that Act but as if the following were omitted—
 (a) in subsection (1), the reference to subsection (3), and
 (b) in subsection (7), the words following paragraph (d).”
Member’s explanatory statement
This amendment amends paragraph 8 of Schedule 6 which makes provision about the territorial application of the applied GDPR. This amendment is consequential on amendments made to Clause 198 (territorial application) in Public Bill Committee.

74

Data Protection Bill [Lords], continued

Secretary Matt Hancock

75

Schedule 6, page 185, line 43, leave out “182” and insert “(Post-review powers to make provision about representation of data subjects)”

Member’s explanatory statement

This amendment is consequential on Amendment 63 and NC16.

Brendan O’Hara
Stuart C. McDonald

11

Schedule 11, page 196, line 39, leave out paragraph 9 and insert—

“9 The listed provisions do not apply to personal data that consists of information which is protected by legal professional privilege or the duty of confidentiality.”

Member’s explanatory statement

This amendment would ensure that both legal professional privilege and confidentiality are recognised within the legislation.

Secretary Matt Hancock

140

Schedule 11, page 197, line 2, at end insert “, or

(b) information in respect of which a duty of confidentiality is owed by a professional legal adviser to a client of the adviser.”

Member’s explanatory statement

This amendment extends the legal professional privilege exemption in Schedule 11 to include information in respect of which a duty of confidentiality is owed by a professional legal adviser to a client of the adviser. See also Amendment 139.

Secretary Matt Hancock

76

Schedule 12, page 200, line 32, after “fees” insert “, charges, penalties”

Member’s explanatory statement

This amendment makes clear that the sums that the Commissioner is required to pay to the Secretary of State include charges (such as charges imposed by regulations made under Clause 136) and penalties.

Secretary Matt Hancock

77

Schedule 13, page 202, line 12, at end insert—

“(2) Section 3(14)(c) does not apply to the reference to personal data in subparagraph (1)(h).”

Member’s explanatory statement

This amendment secures that the reference to personal data in paragraph 1(1)(h) includes all types of personal data. It disapplies Clause 3(14)(c), which provides that references to personal data in

Data Protection Bill [Lords], continued

Parts 5 to 7 of the bill are usually to personal data to which Chapter 2 or 3 of Part 2, Part 3 or Part 4 applies.

Secretary Matt Hancock

78

Schedule 15, page 205, line 19, after “if” insert “a judge of the High Court,”

Member’s explanatory statement

This amendment and Amendments 80 and 86 enable a judge of the High Court or, in Scotland, a judge of the Court of Session to deal with an application for a warrant made by the Information Commissioner under Schedule 15.

Secretary Matt Hancock

79

Schedule 15, page 205, line 28, at end insert “or is capable of being viewed using equipment on such premises”

Member’s explanatory statement

This amendment enables a warrant to be granted in respect of premises where evidence of a failure or offence can be viewed using equipment on the premises, not just where such evidence is to be found on the premises.

Secretary Matt Hancock

80

Schedule 15, page 205, line 31, after “if” insert “a judge of the High Court,”

Member’s explanatory statement

See the explanatory statement for Amendment 78.

Damian Collins
 Ian C. Lucas
 Julie Elliott
 Christian Matheson
 Jo Stevens
 Simon Hart

Giles Watling

Brendan O’Hara

Paul Farrelly

21

Schedule 15, page 206, line 11, at end insert—

“(1A) A warrant issued under subparagraph (1)(b) or (1)(c) of this paragraph does not require any notice to be given to the controller or processor, or to the occupier of the premises.”

Member’s explanatory statement

This amendment would make it clear that a judge can issue a warrant to enter premises under subparagraphs 4(1)(b) or 4(1)(c) without the Commissioner having given prior notice to the data controller, data processor or occupier of premises.

Data Protection Bill [Lords], continued

Secretary Matt Hancock

81

Schedule 15, page 206, line 41, at end insert—

“() to require any person on the premises to provide, in an appropriate form, a copy of information capable of being viewed using equipment on the premises which may be evidence of that failure or offence,”

Member’s explanatory statement

This amendment and Amendments 83 and 85 require a warrant in respect of premises to authorise the Commissioner to require a person to provide a copy of information capable of being viewed using equipment on the premises.

Secretary Matt Hancock

82

Schedule 15, page 206, line 43, after “premises” insert “and of any information capable of being viewed using equipment on the premises”

Member’s explanatory statement

This amendment and Amendment 84 require a warrant in respect of premises to authorise the Commissioner to require a person to provide an explanation of information capable of being viewed using equipment on the premises.

Secretary Matt Hancock

83

Schedule 15, page 207, line 8, at end insert—

“() to require any person on the premises to provide, in an appropriate form, a copy of information capable of being viewed using equipment on the premises which may enable the Commissioner to make such a determination,”

Member’s explanatory statement

See the explanatory statement for Amendment 81.

Secretary Matt Hancock

84

Schedule 15, page 207, line 10, after “premises” insert “and of any information capable of being viewed using equipment on the premises”

Member’s explanatory statement

See the explanatory statement for Amendment 82.

Secretary Matt Hancock

85

Schedule 15, page 207, line 18, at end insert—

“() For the purposes of this paragraph, a copy of information is in an “appropriate form” if—

(a) it can be taken away, and

(b) it is visible and legible or it can readily be made visible and legible.”

Member’s explanatory statement

See the explanatory statement for Amendment 81.

Data Protection Bill [Lords], continued

Brendan O’Hara
Stuart C. McDonald

12

Schedule 15, page 208, line 13, leave out “with respect to obligations, liabilities or rights under the data protection legislation”

Member’s explanatory statement

This amendment would ensure that both legal professional privilege and confidentiality are recognised within the legislation.

Brendan O’Hara
Stuart C. McDonald

13

Schedule 15, page 208, line 21, leave out from “proceedings” to the end of line 23.

Member’s explanatory statement

This amendment would ensure that both legal professional privilege and confidentiality are recognised within the legislation.

Secretary Matt Hancock

86

Schedule 15, page 210, line 13, at end insert—

“() references to a judge of the High Court have effect as if they were references to a judge of the Court of Session,”

Member’s explanatory statement

See the explanatory statement for Amendment 78.

Secretary Matt Hancock

87

Schedule 17, page 214, line 22, at end insert—

“() the Department of Justice in Northern Ireland;”

Member’s explanatory statement

See the explanatory statement for Amendment 89.

Secretary Matt Hancock

88

Schedule 17, page 214, line 42, at end insert—

“() Part 5 of the Police Act 1997,”

Member’s explanatory statement

This amendment provides that the Secretary of State’s functions under Part 5 of the Police Act 1997 are “relevant functions” for the purposes of paragraph 4 of Schedule 17 (relevant records relating to statutory functions).

Secretary Matt Hancock

89

Schedule 17, page 215, line 6, at end insert—

“() In relation to the Department of Justice in Northern Ireland, the “relevant functions” are its functions under Part 5 of the Police Act 1997.”

Member’s explanatory statement

This amendment and Amendment 87 provide that the Department of Justice in Northern Ireland’s functions under Part 5 of the Police Act 1997 are “relevant functions” for the purposes of paragraph 4 of Schedule 17 (relevant records relating to statutory functions).

Data Protection Bill [Lords], continued

Secretary Matt Hancock

90

Schedule 17, page 215, line 8, after “under” insert “—

(a) Part 5 of the Police Act 1997, or

(b) ”

Member’s explanatory statement

This amendment provides that the Scottish Ministers’ functions under Part 5 of the Police Act 1997 are “relevant functions” for the purposes of paragraph 4 of Schedule 17 (relevant records relating to statutory functions).

Secretary Matt Hancock

91

Schedule 17, page 215, line 11, at end insert—

“() Part 5 of the Police Act 1997,”

Member’s explanatory statement

This amendment provides that the Disclosure and Barring Service’s functions under Part 5 of the Police Act 1997 are “relevant functions” for the purposes of paragraph 4 of Schedule 17 (relevant records relating to statutory functions).

Secretary Matt Hancock

92

Schedule 18, page 216, line 1, leave out sub-paragraph (2) and insert —

“() In subsection (2), for “issued under section 52B (data-sharing code) of the Data Protection Act 1998” substitute “prepared under section 121 of the Data Protection Act 2018 (data-sharing code) and issued under section 124(4) of that Act”.”

Member’s explanatory statement

This amendment replaces a consequential amendment of section 19AC of the Registration Service Act 1953. The new wording makes clear that the code referred to is the data-sharing code prepared under Clause 121 and issued under Clause 124(4).

Secretary Matt Hancock

93

Schedule 18, page 216, line 29, leave out “160” and insert “(Applications in respect of urgent notices)”

Member’s explanatory statement

This amendment amends a consequential amendment to the Parliamentary Commissioner Act 1967 and is consequential on NC15.

Secretary Matt Hancock

94

Schedule 18, page 217, line 2, leave out “160” and insert “(Applications in respect of urgent notices)”

Member’s explanatory statement

This amendment amends a consequential amendment to the Local Government Act 1974 and is consequential on NC15.

Data Protection Bill [Lords], continued

Secretary Matt Hancock

95

Schedule 18, page 217, line 17, leave out “160” and insert “(Applications in respect of urgent notices)”

Member’s explanatory statement

This amendment amends a consequential amendment to the Local Government Act 1974 and is consequential on NC15.

Secretary Matt Hancock

96

Schedule 18, page 223, line 38, leave out “160” and insert “(Applications in respect of urgent notices)”

Member’s explanatory statement

This amendment amends a consequential amendment to the Health Service Commissioners Act 1993 and is consequential on NC15.

Secretary Matt Hancock

97

Schedule 18, page 224, line 12, at end insert “, with the exception of section 62 and paragraphs 13, 15, 16, 18 and 19 of Schedule 15 (which amend other enactments)”

Member’s explanatory statement

This amendment provides that certain provisions of the Data Protection Act 1998, which amend other enactments, are not to be repealed.

Secretary Matt Hancock

98

Schedule 18, page 231, line 19, leave out “160” and insert “(Applications in respect of urgent notices)”

Member’s explanatory statement

This amendment amends a consequential amendment to the Scottish Public Services Ombudsman Act 2002 and is consequential on NC15.

Secretary Matt Hancock

99

Schedule 18, page 236, line 2, leave out “160” and insert “(Applications in respect of urgent notices)”

Member’s explanatory statement

This amendment amends a consequential amendment to the Public Services Ombudsman (Wales) Act 2005 and is consequential on NC15.

Secretary Matt Hancock

100

Schedule 18, page 236, line 36, leave out “160” and insert “(Applications in respect of urgent notices)”

Member’s explanatory statement

This amendment amends a consequential amendment to the Commissioner for Older People (Wales) Act 2006 and is consequential on NC15.

Secretary Matt Hancock

101

Schedule 18, page 239, line 34, leave out sub-paragraph (2) and insert —

“() In subsection (6), for “issued under section 52B (data-sharing code) of the Data Protection Act 1998” substitute “prepared under section 121 of the Data

Data Protection Bill [Lords], continued

Protection Act 2018 (data-sharing code) and issued under section 124(4) of that Act”.

Member’s explanatory statement

This amendment replaces a consequential amendment of section 45E of the Statistics and Registration Service Act 2007. The new wording makes clear that the code referred to is the data-sharing code prepared under Clause 121 and issued under Clause 124(4).

Secretary Matt Hancock

102

Schedule 18, page 245, line 2, leave out “160” and insert “(Applications in respect of urgent notices)”

Member’s explanatory statement

This amendment amends a consequential amendment to the English language text of the Welsh Language (Wales) Measure 2011 and is consequential on NC15.

Secretary Matt Hancock

103

Schedule 18, page 245, line 6, leave out “160” and insert “(Applications in respect of urgent notices)”

Member’s explanatory statement

This amendment amends a consequential amendment to the Welsh language text of the Welsh Language (Wales) Measure 2011 and is consequential on NC15.

Secretary Matt Hancock

104

Schedule 18, page 252, line 9, leave out “160” and insert “(Applications in respect of urgent notices)”

Member’s explanatory statement

This amendment amends a consequential amendment to the Public Services Ombudsman Act (Northern Ireland) 2016 and is consequential on NC15.

Secretary Matt Hancock

105

Schedule 18, page 253, line 9, leave out “160” and insert “(Applications in respect of urgent notices)”

Member’s explanatory statement

This amendment amends a consequential amendment to the Justice Act (Northern Ireland) 2016 and is consequential on NC15.

Secretary Matt Hancock

106

Schedule 18, page 254, line 23, leave out sub-paragraph (2) and insert —

“() In subsection (2), for “issued under section 52B (data-sharing code) of the Data Protection Act 1998” substitute “prepared under section 121 of the Data Protection Act 2018 (data-sharing code) and issued under section 124(4) of that Act”.

Member’s explanatory statement

This amendment replaces a consequential amendment of section 43 of the Digital Economy Act 2017. The new wording makes clear that the code referred to is the data-sharing code prepared under Clause 121 and issued under Clause 124(4).

Data Protection Bill [Lords], continued

Secretary Matt Hancock

107

Schedule 18, page 254, line 37, leave out sub-paragraph (2) and insert —

“() In subsection (2), for “issued under section 52B (data-sharing code) of the Data Protection Act 1998” substitute “prepared under section 121 of the Data Protection Act 2018 (data-sharing code) and issued under section 124(4) of that Act”.”

Member’s explanatory statement

This amendment replaces a consequential amendment of section 52 of the Digital Economy Act 2017. The new wording makes clear that the code referred to is the data-sharing code prepared under Clause 121 and issued under Clause 124(4).

Secretary Matt Hancock

108

Schedule 18, page 255, line 13, leave out sub-paragraph (2) and insert —

“() In subsection (2), for “issued under section 52B (data-sharing code) of the Data Protection Act 1998” substitute “prepared under section 121 of the Data Protection Act 2018 (data-sharing code) and issued under section 124(4) of that Act”.”

Member’s explanatory statement

This amendment replaces a consequential amendment of section 60 of the Digital Economy Act 2017. The new wording makes clear that the code referred to is the data-sharing code prepared under Clause 121 and issued under Clause 124(4).

Secretary Matt Hancock

109

Schedule 18, page 255, line 28, leave out sub-paragraph (2) and insert —

“() In subsection (2), for “issued under section 52B (data-sharing code) of the Data Protection Act 1998” substitute “prepared under section 121 of the Data Protection Act 2018 (data-sharing code) and issued under section 124(4) of that Act”.”

Member’s explanatory statement

This amendment replaces a consequential amendment of section 70 of the Digital Economy Act 2017. The new wording makes clear that the code referred to is the data-sharing code prepared under Clause 121 and issued under Clause 124(4).

Secretary Matt Hancock

110

Schedule 18, page 257, line 12, at end insert—

“Section (<i>Destroying or falsifying information and documents etc</i>)	Destroying or falsifying information and documents etc”
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Member’s explanatory statement

This amendment amends a consequential amendment to the Estate Agents (Specified Offences) (No. 2) Order 1991 to include a reference to the offence in NC14.

Data Protection Bill [Lords], continued

Secretary Matt Hancock

111

Schedule 18, page 260, line 8, at end insert —

“Data Protection (Corporate Finance Exemption) Order 2000 (S.I. 2000/184)

238A The Data Protection (Corporate Finance Exemption) Order 2000 is revoked.

Data Protection (Conditions under Paragraph 3 of Part II of Schedule 1) Order 2000 (S.I. 2000/185)

238B The Data Protection (Conditions under Paragraph 3 of Part II of Schedule 1) Order 2000 is revoked.

Data Protection (Functions of Designated Authority) Order 2000 (S.I. 2000/186)

238C The Data Protection (Functions of Designated Authority) Order 2000 is revoked.

Data Protection (International Co-operation) Order 2000 (S.I. 2000/190)

238D The Data Protection (International Co-operation) Order 2000 is revoked.

Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations 2000 (S.I. 2000/191)

238E The Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations 2000 are revoked.

Consumer Credit (Credit Reference Agency) Regulations 2000 (S.I. 2000/290)

238F In the Consumer Credit (Credit Reference Agency) Regulations 2000, regulation 4(1) and Schedule 1 (statement of rights under section 9(3) of the Data Protection Act 1998) are revoked.

Data Protection (Subject Access Modification) (Health) Order 2000 (S.I. 2000/413)

238G The Data Protection (Subject Access Modification) (Health) Order 2000 is revoked.

Data Protection (Subject Access Modification) (Education) Order 2000 (S.I. 2000/414)

238H The Data Protection (Subject Access Modification) (Education) Order 2000 is revoked.

Data Protection (Subject Access Modification) (Social Work) Order 2000 (S.I. 2000/415)

238I The Data Protection (Subject Access Modification) (Social Work) Order 2000 is revoked.

Data Protection (Crown Appointments) Order 2000 (S.I. 2000/416)

238J The Data Protection (Crown Appointments) Order 2000 is revoked.

Data Protection (Processing of Sensitive Personal Data) Order 2000 (S.I. 2000/417)

238K The Data Protection (Processing of Sensitive Personal Data) Order 2000 is revoked.

Data Protection Bill [Lords], continued

Data Protection (Miscellaneous Subject Access Exemptions) Order 2000 (S.I. 2000/419)

238L The Data Protection (Miscellaneous Subject Access Exemptions) Order 2000 is revoked.

Data Protection (Designated Codes of Practice) (No. 2) Order 2000 (S.I. 2000/1864)

238M The Data Protection (Designated Codes of Practice) (No. 2) Order 2000 is revoked.”

Member’s explanatory statement

This amendment revokes a number of Orders and regulations made under Parts 1, 2, 4 and 6 of the Data Protection Act 1998.

Secretary Matt Hancock

112

Schedule 18, page 264, line 15, at end insert—

“Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002 (S.I. 2002/2905)

276A The Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002 is revoked.

Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2426)

276B The Privacy and Electronic Communications (EC Directive) Regulations 2003 are amended as follows.

276C In regulation 2(1) (interpretation), in the definition of “the Information Commissioner” and “the Commissioner”, for “section 6 of the Data Protection Act 1998” substitute “the Data Protection Act 2018”.

276D(1) Regulation 4 (relationship between these Regulations and the Data Protection Act 1998) is amended as follows.

- (2) The existing text becomes sub-paragraph (1).
- (3) In that sub-paragraph, for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (4) After that sub-paragraph insert—
 - “(2) In this regulation—
 - “the data protection legislation” 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).”
 - (3) Regulation 2(2) and (3) (meaning of certain expressions) do not apply for the purposes of this regulation.”
- (5) In the heading of that regulation, for “the Data Protection Act 1998” substitute “the data protection legislation”.

Member’s explanatory statement

This amendment revokes an Order made under paragraph 10 of Schedule 3 to the Data Protection Act 1998. It also makes consequential amendments of the Privacy and Electronic Communications (EC Directive) Regulations 2003. See also the transitional provision in NS3.

Data Protection Bill [Lords], continued

Secretary Matt Hancock

113

Schedule 18, page 265, line 45, at end insert —

“Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (S.I. 2004/3244)

286A In regulation 3(1) of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, omit “the appropriate limit referred to in section 9A(3) and (4) of the 1998 Act and”.”

Member’s explanatory statement

This amendment amends provision about the appropriate limit for the purposes of section 9A of the Data Protection Act 1998 and section 12 of the Freedom of Information Act 2000 in consequence of the repeal of the Data Protection Act 1998.

Secretary Matt Hancock

114

Schedule 18, page 273, line 19, at end insert —

“Data Protection (Processing of Sensitive Personal Data) Order 2006 (S.I. 2006/2068)

302A The Data Protection (Processing of Sensitive Personal Data) Order 2006 is revoked.”

Member’s explanatory statement

This amendment revokes an Order made under paragraph 10 of Schedule 3 to the Data Protection Act 1998.

Secretary Matt Hancock

115

Schedule 18, page 279, line 20, at end insert “or section (*Destroying or falsifying information and documents etc*) of that Act (destroying or falsifying information and documents etc);”

Member’s explanatory statement

This amendment amends a consequential amendment to the Companies (Disclosure of Address) Regulations 2009 to include a reference to the offence in NC14.

Secretary Matt Hancock

116

Schedule 18, page 280, line 10, at end insert “or section (*Destroying or falsifying information and documents etc*) of that Act (destroying or falsifying information and documents etc);”

Member’s explanatory statement

This amendment amends a consequential amendment to the Overseas Companies Regulations 2009 to include a reference to the offence in NC14.

Secretary Matt Hancock

117

Schedule 18, page 280, line 31, at end insert —

“Data Protection (Processing of Sensitive Personal Data) Order 2009 (S.I. 2009/1811)

321A The Data Protection (Processing of Sensitive Personal Data) Order 2009 is revoked.”

Member’s explanatory statement

This amendment revokes an Order made under paragraph 10 of Schedule 3 to the Data Protection Act 1998.

Data Protection Bill [Lords], continued

Secretary Matt Hancock

118

Schedule 18, page 283, line 7, at end insert —

“Data Protection (Monetary Penalties) (Maximum Penalty and Notices) Regulations 2010 (S.I. 2010/31)

329A The Data Protection (Monetary Penalties) (Maximum Penalty and Notices) Regulations 2010 are revoked.”

Member’s explanatory statement

This amendment revokes an Order made under sections 55A and 55B of the Data Protection Act 1998.

Secretary Matt Hancock

119

Schedule 18, page 284, line 43, at end insert —

“Data Protection (Monetary Penalties) Order 2010 (S.I. 2010/910)

338A The Data Protection (Monetary Penalties) Order 2010 is revoked.”

Member’s explanatory statement

This amendment revokes an Order made under section 55E of the Data Protection Act 1998.

Secretary Matt Hancock

120

Schedule 18, page 287, line 39, at end insert —

“Data Protection (Processing of Sensitive Personal Data) Order 2012 (S.I. 2012/1978)

347A The Data Protection (Processing of Sensitive Personal Data) Order 2012 is revoked.”

Member’s explanatory statement

This amendment revokes an Order made under paragraph 10 of Schedule 3 to the Data Protection Act 1998.

Secretary Matt Hancock

121

Schedule 18, page 289, line 20, at end insert —

“Data Protection (Assessment Notices) (Designation of National Health Service Bodies) Order 2014 (S.I. 2014/3282)

357A The Data Protection (Assessment Notices) (Designation of National Health Service Bodies) Order 2014 is revoked.”

Member’s explanatory statement

This amendment revokes an Order made under section 41A of the Data Protection Act 1998.

Secretary Matt Hancock

122

Schedule 18, page 290, line 9, at end insert “or section (*Destroying or falsifying information and documents etc*) of that Act (destroying or falsifying information and documents etc);”

Member’s explanatory statement

This amendment amends a consequential amendment to the Companies (Disclosure of Date of Birth Information) Regulations 2015 to include a reference to the offence in NC14.

Data Protection Bill [Lords], continued

Secretary Matt Hancock

123

Schedule 18, page 293, line 11, leave out “; or”

Member’s explanatory statement*See the explanatory statement for Amendment 124.*

Secretary Matt Hancock

124

Schedule 18, page 293, line 14, after “notice;” insert “or

“(v) section (*Destroying or falsifying information and documents etc*) of that Act (destroying or falsifying information and documents etc);”**Member’s explanatory statement***This amendment makes a further consequential amendment to the Register of People with Significant Control Regulations 2016 to include a reference to the offence in NC14.*

Secretary Matt Hancock

125

Schedule 18, page 294, line 16, at end insert—

“(ea) section (*Information orders*) (information orders);”**Member’s explanatory statement***This amendment and Amendment 131 apply new Clause NC13, with a modification, for the purposes of enforcing the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 and the eIDAS Regulation (defined in the 2016 Regulations).*

Secretary Matt Hancock

126

Schedule 18, page 294, line 18, at end insert—

“(ga) section (*Destroying or falsifying information and documents etc*) (destroying or falsifying information and documents etc);”**Member’s explanatory statement***This amendment applies new Clause NC14 for the purposes of enforcing the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 and the eIDAS Regulation (defined in the 2016 Regulations).*

Secretary Matt Hancock

127

Schedule 18, page 294, line 34, at end insert—

“(ta) section (*Applications in respect of urgent notices*) (applications in respect of urgent notices);

(tb) section 173 (jurisdiction);”

Member’s explanatory statement*This amendment and Amendment 135 apply new Clause NC15 and Clause 173, with modifications, for the purposes of enforcing the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 and the eIDAS Regulation (defined in the 2016 Regulations).*

Secretary Matt Hancock

128

Schedule 18, page 295, line 16, at end insert—

“(3) In that section, subsection (2) has effect as if paragraph (a) were omitted.”

Member’s explanatory statement*This amendment is consequential on Amendment 28. It amends consequential provision applying Clause 141 of the Bill, with modifications, for the purposes of enforcing the Electronic*

Data Protection Bill [Lords], continued

Identification and Trust Services for Electronic Transactions Regulations 2016 and the eIDAS Regulation (defined in the 2016 Regulations).

Secretary Matt Hancock

129

Schedule 18, page 295, line 24, after “143” insert “or (*Destroying or falsifying information and documents etc*)”

Member’s explanatory statement

This amendment is consequential on NC14 and Amendment 126. It amends consequential provision applying Clause 142(7) of the Bill, with modifications, for the purposes of enforcing the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 and the eIDAS Regulation (defined in the 2016 Regulations).

Secretary Matt Hancock

130

Schedule 18, page 295, line 27, at beginning insert “section (*Destroying or falsifying information and documents etc*) or”

Member’s explanatory statement

This amendment is consequential on NC14 and Amendment 126. It amends consequential provision applying Clause 142(8) of the Bill, with modifications, for the purposes of enforcing the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 and the eIDAS Regulation (defined in the 2016 Regulations).

Secretary Matt Hancock

131

Schedule 18, page 295, line 27, at end insert—

“Modification of section (Information orders) (information orders)

4A Section (*Information orders*)(2)(b) has effect as if for “section 141(2)(b)” there were substituted “section 141(2)”.

Member’s explanatory statement

See the explanatory statement for Amendment 125.

Secretary Matt Hancock

132

Schedule 18, page 295, line 38, after “(8)” insert “, (8A)”

Member’s explanatory statement

This amendment is consequential on Amendment 38. It amends consequential provision applying Clause 144 of the Bill, with modifications, for the purposes of enforcing the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 and the eIDAS Regulation (defined in the 2016 Regulations).

Secretary Matt Hancock

133

Schedule 18, page 295, line 40, at end insert—

“(d) subsection (8A)(a) has effect as if for “as described in section 146(2) or that an offence under this Act” there were substituted “to comply with the eIDAS requirements or that an offence under section 143 or (*Destroying or falsifying information and documents etc*) or paragraph 15 of Schedule 15”.

Member’s explanatory statement

This amendment is consequential on Amendment 38. It amends consequential provision applying Clause 144 of the Bill for the purposes of enforcing the Electronic Identification and Trust Services

Data Protection Bill [Lords], continued

for Electronic Transactions Regulations 2016 and the eIDAS Regulation (defined in the 2016 Regulations).

Secretary Matt Hancock

Schedule 18, page 297, line 18, after “143” insert “or (*Destroying or falsifying information and documents etc*)” 134

Member’s explanatory statement

This amendment is consequential on NC14 and Amendment 126. It amends consequential provision applying paragraph 1 of Schedule 15 to the Bill, with modifications, for the purposes of enforcing the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 and the eIDAS Regulation (defined in the 2016 Regulations).

Secretary Matt Hancock

Schedule 18, page 298, line 38, at end insert— 135

“Modification of section 173 (jurisdiction)

18A (1) Section 173 has effect as if subsections (2)(c) and (d) and (3) were omitted.

(2) Subsection (1) of that section has effect as if for “subsections (3) and (4)” there were substituted “subsection (4)”.

Member’s explanatory statement

See the explanatory statement for Amendment 127.

Secretary Matt Hancock

Schedule 18, page 299, line 9, after “143,” insert “(*Destroying or falsifying information and documents etc*),” 136

Member’s explanatory statement

See the explanatory statement for Amendment 126.

Secretary Matt Hancock

Schedule 18, page 299, line 10, after “143” insert “or (*Destroying or falsifying information and documents etc*)” 137

Member’s explanatory statement

See the explanatory statement for Amendment 126.

Secretary Matt Hancock

Schedule 18, page 302, line 39, at end insert— 138

“Data Protection (Charges and Information) Regulations 2018 (S.I. 2018/480)

396A In regulation 1(2) of the Data Protection (Charges and Information) Regulations 2018 (interpretation), at the appropriate places insert—

““data controller” means a person who is a controller for the purposes of Parts 5 to 7 of the Data Protection Act 2018 (see section 3(6) and (14) of that Act);”;

Data Protection Bill [Lords], continued

““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);”.”

Member’s explanatory statement

This amendment makes consequential amendments to the Data Protection (Charges and Information) Regulations 2018.

ORDER OF THE HOUSE [5 MARCH 2018]

That the following provisions shall apply to the Data Protection Bill [Lords]:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 27 March 2018.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and up to and including Third Reading

4. Proceedings on Consideration and proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
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.

DATA PROTECTION BILL [LORDS] (PROGRAMME) (NO. 2)

Secretary Matt Hancock

That the Order of 5 March 2018 (Data Protection Bill [Lords] (Programme)) be varied as follows.

1. Paragraphs 4 and 5 of the Order shall be omitted.
2. Proceedings on Consideration and up to and including Third Reading shall be taken in one day in accordance with the following provisions of this Order.
3. Proceedings on Consideration—
 - (a) shall be taken in the order shown in the first column of the following Table, and
 - (b) shall (so far as not previously concluded) be brought to a conclusion at the times specified in the second column of the Table.

Data Protection Bill [Lords], continued
TABLE

<i>Proceedings</i>	<i>Time for conclusion of proceedings</i>
New Clauses, new Schedules and amendments relating to the processing of personal data for the purposes of journalism	4.00pm, or two hours after the commencement of proceedings on the Motion for this Order, whichever is the later.
Remaining proceedings on Consideration	6.00pm.
4. Proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion at 6.00pm.	
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at 7.00pm.	

NOTICES WITHDRAWN

The following Notices were withdrawn on 19 April 2018:

NC5

The following Notices were withdrawn on 1 May 2018:

NC9

The following Notices were withdrawn on 3 May 2018:

NS2

The following Notices were withdrawn on 4 May 2018:

NC25 and NC26

The following Notices were withdrawn on 8 May 2018:

NC1, NC2, NC7, NC8, 1 and 17
