



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Wednesday 28 March 2018

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

Amendments tabled since the last publication: 2 to 13

CONSIDERATION OF BILL (REPORT STAGE)

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This document includes all amendments tabled to date and includes any withdrawn amendments at the end.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

Frank Field

NC1

To move the following Clause—

“Social security benefits: disclosure of personal data

- (1) The Secretary of State shall authorise the disclosure of personal data specified under subsection (2) to a person or body on a register maintained under subsection (3).
- (2) Personal data under this section shall be data relating to a new or existing claim by an individual to one or more of the following benefits—
 - (a) Income Support,
 - (b) income-based Jobseeker’s Allowance,
 - (c) income-related Employment and Support Allowance,
 - (d) support under Part VI of the Immigration and Asylum Act 1999,
 - (e) the guaranteed element of Pension Credit,
 - (f) Child Tax Credit,

Data Protection Bill [Lords], continued

- (g) Working Tax Credit and Working Tax Credit run-on,
 - (h) Universal Credit,
 - (i) Disability Living Allowance,
 - (j) Personal independence payment, and
 - (k) any other benefit or credit which may be designated by regulations made by the Secretary of State.
- (3) The Secretary of State shall, by regulations—
- (a) provide for the establishment of a register of persons or bodies to whom personal data may be disclosed under this section, and
 - (b) specify who those persons or bodies shall be.
- (4) Personal data may be disclosed under this section without the claimant having to provide explicit consent for such disclosure.
- (5) Regulations under this section shall be made by statutory instrument and may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

Member's explanatory statement

This new clause would require the Secretary of State to disclose data on individuals' eligibility for benefits, as well as the management of their claim, to registered third parties (which would be other specified public bodies, including local authorities, and third sector bodies, including advice agencies). Disclosure would not need the individual's consent.

Frank Field

NC2

To move the following Clause—

“Eligibility for benefits: duty to share data

- (1) It shall be a legal obligation within the meaning of point 1(c) of Article 6 of the GDPR for the Secretary of State to share with a local authority, on request by that local authority, data relating to eligibility of individuals for social security benefits.
- (2) The social security benefits for which data on eligibility of individuals shall be shared under subsection (1) are—
 - (a) Income Support,
 - (b) income-based Jobseeker's Allowance,
 - (c) income-related Employment and Support Allowance,
 - (d) support under Part VI of the Immigration and Asylum Act 1999,
 - (e) the guaranteed element of Pension Credit,
 - (f) Child Tax Credit,
 - (g) Working Tax Credit and Working Tax Credit run-on,
 - (h) Universal Credit,
 - (i) Disability Living Allowance,
 - (j) Personal independence payment, and
 - (k) any other benefit or credit which may be designated by regulations made by the Secretary of State.
- (3) The obligation under subsection (1) shall apply only in relation to a person who qualifies for one or more of the benefits listed under subsection (2).
- (4) A local authority may use data shared under subsection (1) only for—

Data Protection Bill [Lords], continued

- (a) the purpose of registering a child as being eligible for free school meals, and notifying the person responsible for care of the child that the child has been registered,
 - (b) the purpose of registering a child or any other person as being eligible for Healthy Start vouchers, and notifying the person registered or notifying the person responsible for care of the child that the child has been registered,
 - (c) the purpose of registering a child for free early years education and childcare, and notifying the person responsible for care of the child that the child has been registered, or
 - (d) any other purpose which may be designated by regulations made by the Secretary of State.
- (5) Regulations under this section shall be made by statutory instrument and may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

Brendan O’Hara
Stuart C. McDonald

4

- ★ 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.

Brendan O’Hara
Stuart C. McDonald

5

- ★ 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.

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

Brendan O'Hara
Stuart C. McDonald

6

- ★ 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.

Brendan O'Hara
Stuart C. McDonald

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

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.

Brendan O'Hara
Stuart C. McDonald

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.

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

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

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.

Frank Field

1

- Schedule 1, page 123, line 16, at end insert—

““obligations” includes any requirement which may be placed upon the Secretary of State to supply to local authorities data relating to individual eligibility for benefits, thereby enabling local authorities automatically to register all eligible children for free school meals, Healthy Start vouchers, free early years education and childcare, or any other purpose designated by the Secretary of State.”

Brendan O’Hara
Stuart C. McDonald

10

- ★ 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.

Data Protection Bill [Lords], continued

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.
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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.
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ORDER OF THE HOUSE [5 MARCH 2018]

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

Committal

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

Proceedings in Public Bill Committee

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

Proceedings on Consideration and up to and including Third Reading

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

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

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

Other proceedings

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