



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Tuesday 24 April 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: 17 to 19 and NC7 to NC11

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This document includes all amendments tabled to date and includes any withdrawn amendments at the end.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).

Data Protection Bill [Lords], continued

- (4) A local authority may use data shared under subsection (1) only for—
 - (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.”

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

Data Protection Bill [Lords], continued

- (iv) persons who appear to the Commissioner or the Secretary of State to represent the interests of data subjects; and
- (b) publish a draft of the Bill of 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.
- (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.

Data Protection Bill [Lords], continued

- (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).
- (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

NC7

★ To move the following Clause—

“Publishers of news-related material: damages and costs

- (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 not 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, or
 - (b) it is just and equitable in all the circumstances of the case to award costs against the defendant.
- (3) If the defendant 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 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

Data Protection Bill [Lords], continued

- (b) it is just and equitable in all the circumstances of the case 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.”
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Christine Jardine

NC8

★ To move the following Clause—

“Publishers of news-related material: interpretive provisions

- (1) This section applies for the purposes of section [Publishers of news-related material: damages and costs]
 - (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.
 - (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).
 - (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.
 - (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.”
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Data Protection Bill [Lords], *continued*

Christine Jardine

NC9

- ★ To move the following Clause—

“Inquiry into issues arising from data protection breaches committed by or on behalf of news publishers

- (1) The Secretary of State must, within the period of three months beginning on 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, news publishers.
- (2) The inquiry’s terms of reference must include, but are not limited to,—
 - (a) to inquire, in respect of personal data processing, into the extent of unlawful or improper conduct within news publishers and, as appropriate, other organisations within the media, and by those responsible for holding personal data;
 - (b) to inquire, in respect of personal data processing, into the extent of corporate governance and management failures at news publishers;
 - (c) in the light of these inquiries, to consider the implications for personal data protection in relation to freedom of speech; and
 - (d) to make recommendations on what action, if any, should be taken in the public interest.”

Christine Jardine

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 8 of this Act.”
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 Data Protection Bill [*Lords*], *continued*

Christine Jardine

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.

Christine Jardine

18

★ Clause 7, page 5, line 24, after “subsections” insert “(1A),”.

Christine Jardine

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).”
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Brendan O’Hara
 Stuart C. McDonald
 Caroline Lucas

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.

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

Brendan O’Hara
Stuart C. McDonald
Caroline Lucas

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.

Brendan O’Hara
Stuart C. McDonald
Caroline Lucas

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
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.

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

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.

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.

Data Protection Bill [Lords], continued

Christine Jardine

17

★ Clause 203, page 121, line 32, at end insert—

“(aa) sections [Publishers of news-related material: damages and costs] and [Publishers of news-related material: interpretive provisions].”

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

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.”

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

Christine Jardine
Jo Swinson

Caroline Lucas
Tom Brake

15

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

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.

Julie Elliott
Alex Cunningham
Edward Miliband
Christine Jardine

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

Data Protection Bill [Lords], continued

the other journalism codes recognised in the Bill (The BBC and Ofcom Codes, and the Editors' Code observed by members of IPSO).

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.

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.

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.

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

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.

NOTICES WITHDRAWN

The following Notices were withdrawn on Thursday 19 April:

NC5
