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Committee Stage: Thursday 11 May 2023

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# Data Protection and Digital Information (No. 2) Bill

## (Amendment Paper)

This document lists all amendments tabled to the Data Protection and Digital Information (No. 2) Bill. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

★ New Amendments.

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

New Amendments: 47 to 58 and NC7

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Sir John Whittingdale

Gov 30

☆ Schedule 1, page 137, line 28, leave out “fourth day after” and insert “period of 30 days beginning with the day after”

### Member's explanatory statement

Annex 1 to the UK GDPR makes provision about processing for democratic engagement purposes, including certain processing by elected representatives. This amendment increases the period for which former members of the Westminster Parliament and the devolved legislatures continue to be treated as “elected representatives” following an election. See also NC6 and Amendment 31.

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Sir John Whittingdale

Gov 17

☆ Schedule 3, page 140, line 9, leave out sub-paragraph (3) and insert—

“(3) In paragraph 2—

- (a) for “under Articles 15 to 22”, in the first place, substitute “arising under or by virtue of Articles 15 to 22D”, and
- (b) for “his or her rights under Articles 15 to 22” substitute “those rights”.

**Member's explanatory statement**

This amendment adjusts consequential amendments of Article 12(2) of the UK GDPR for consistency with other amendments of the UK GDPR consequential on the insertion of new Articles 22A to 22D.

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**Sir John Whittingdale**

**Gov 18**

- ☆ Schedule 3, page 140, line 30, before second "in" insert "provided for"

**Member's explanatory statement**

This amendment and Amendment 19 adjust consequential amendments of Article 23(1) of the UK GDPR for consistency with other amendments of the UK GDPR consequential on the insertion of new Articles 22A to 22D.

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**Sir John Whittingdale**

**Gov 19**

- ☆ Schedule 3, page 140, line 31, leave out "in or under" and insert "arising under or by virtue of"

**Member's explanatory statement**

See the explanatory statement for Amendment 18.

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**Sir John Whittingdale**

**Gov 20**

- ☆ Schedule 3, page 140, line 33, leave out from "protection" to end of line 35 and insert "in accordance with, and with regulations made under, Articles 22A to 22D in connection with decisions based solely on automated processing (including decisions reached by means of profiling)".

**Member's explanatory statement**

This amendment adjusts the consequential amendment of Article 47(2)(e) of the UK GDPR to reflect the way in which profiling is required to be taken into account for the purposes of provisions about automated decision-making (see Article 22A(2) inserted by clause 11).

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**Sir John Whittingdale**

**Gov 21**

- ☆ Schedule 3, page 140, line 36, leave out paragraph 10 and insert—

"10 In Article 83(5) (general conditions for imposing administrative fines)—

(a) in point (b), for "22" substitute "21", and

(b) after that point insert—

"(ba) Article 22B or 22C (restrictions on, and safeguards for, automated decision-making);".

**Member's explanatory statement**

This amendment adjusts the consequential amendment of Art 83(5) of the UK GDPR (maximum amount of penalty) for consistency with the consequential amendment of equivalent provision in section 157(2) of the Data Protection Act 2018.

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Sir John Whittingdale

Gov 22

☆ Schedule 3, page 141, line 8, leave out sub-paragraph (2) and insert—

“(2) In subsection (3), for “by the data subject under section 45, 46, 47 or 50” substitute “made by the data subject under or by virtue of any of sections 45, 46, 47, 50C or 50D”.”

**Member's explanatory statement**

This amendment adjusts the consequential amendment of section 52(3) of the Data Protection Act 2018 for consistency with other amendments of that Act consequential on the insertion of new sections 50A to 50D.

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Sir John Whittingdale

Gov 23

☆ Schedule 3, page 141, line 9, leave out sub-paragraph (3) and insert—

“(3) In subsection (6), for “under sections 45 to 50” substitute “arising under or by virtue of sections 45 to 50D”.”

**Member's explanatory statement**

This amendment adjusts the consequential amendment of section 52(6) of the Data Protection Act 2018 for consistency with other amendments of that Act consequential on the insertion of new sections 50A to 50D.

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Sir John Whittingdale

Gov 1

☆ Clause 19, page 35, leave out lines 23 to 25 and insert—

“(5) The Commissioner must encourage expert public bodies to submit codes of conduct described in subsection (1) to the Commissioner in draft.”

**Member's explanatory statement**

This amendment replaces a duty on expert public bodies to submit draft codes of conduct relating to compliance with Part 3 of the Data Protection Act 2018 to the Information Commissioner with a duty on the Information Commissioner to encourage such bodies to do so.

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Sir John Whittingdale

Gov 2

☆ Clause 19, page 35, line 26, leave out from “body” to “, the” in line 27 and insert “does so”

**Member's explanatory statement**

This amendment is consequential on Amendment 1.

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**Sir John Whittingdale**

**Gov 3**

- ☆ Clause 19, page 35, line 28, leave out "draft"

**Member's explanatory statement**

This amendment is consequential on Amendment 2.

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**Sir John Whittingdale**

**Gov 4**

- ☆ Clause 19, page 35, line 33, leave out from "conduct" to the end of line 34 and insert "that is for the time being approved under this section as they apply in relation to a code"

**Member's explanatory statement**

This amendment makes clear that the Commissioner's duty under new section 68A of the Data Protection Act 2018 to consider whether to approve amendments of codes of conduct relates only to amendments of codes that are for the time being approved under that section.

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**Sir John Whittingdale**

**Gov 42**

- ☆ Schedule 4, page 143, line 20, leave out "and section 135"

**Member's explanatory statement**

This amendment is consequential on Amendment 40.

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**Sir John Whittingdale**

**Gov 43**

- ☆ Schedule 4, page 143, line 24, leave out paragraph 18

**Member's explanatory statement**

This amendment is consequential on Amendment 40.

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**Sir John Whittingdale**

**Gov 24**

- ☆ Schedule 5, page 147, line 3, leave out "from the United Kingdom" and insert "to the country or organisation by means of processing to which this Regulation applies as described in Article 3"

**Member's explanatory statement**

New Article 45B(3)(c) of the UK GDPR explains how references to processing of personal data in a third country should be read (in the data protection test for regulations approving international

transfers of personal data). This amendment changes a reference to data transferred from the United Kingdom to include certain data transferred from outside the United Kingdom.

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**Sir John Whittingdale**

**Gov 25**

- ☆ Schedule 5, page 147, line 12, leave out “the transfer of personal data” and insert “transfer”

**Member's explanatory statement**

This amendment and Amendment 26 simplify the wording in new Article 45B(4)(b) of the UK GDPR.

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**Sir John Whittingdale**

**Gov 26**

- ☆ Schedule 5, page 147, line 14, leave out “the transfer of personal data” and insert “transfer”

**Member's explanatory statement**

See the explanatory statement for Amendment 25.

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**Sir John Whittingdale**

**Gov 27**

- ☆ Schedule 6, page 155, line 39, leave out “from the United Kingdom” and insert “to the country or organisation by means of processing to which this Act applies as described in section 207(2)”

**Member's explanatory statement**

New section 74AB(3)(c) of the Data Protection Act 2018 explains how references to processing of personal data in a third country should be read (in the data protection test for regulations approving international transfers of personal data). This amendment changes a reference to data transferred from the United Kingdom to include certain data transferred from outside the United Kingdom.

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**Sir John Whittingdale**

**Gov 28**

- ☆ Schedule 6, page 156, line 6, leave out “the transfer of personal data” and insert “transfer”

**Member's explanatory statement**

This amendment and Amendment 29 simplify the wording in new section 74AB(4)(b) of the Data Protection Act 2018.

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**Sir John Whittingdale**

**Gov 29**

- ☆ Schedule 6, page 156, line 8, leave out “the transfer of personal data” and insert “transfer”

**Member's explanatory statement**

See the explanatory statement for Amendment 28.

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**Sir John Whittingdale**

**Gov 34**

☆ Clause 22, page 36, leave out lines 20 to 22

**Member's explanatory statement**

This amendment and Amendment 37 transpose the requirement for processing of personal data for research, archiving and statistical purposes to be carried out subject to appropriate safeguards from the beginning to the end of new Article 84B of the UK GDPR.

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**Sir John Whittingdale**

**Gov 35**

☆ Clause 22, page 36, leave out lines 23 to 30 and insert—

“3A Personal data may only be processed for RAS purposes if—

- (a) the processing consists of the collection of the personal data (whether from the data subject or otherwise),
- (b) the processing is carried out in order to convert the personal data into information which can be processed in a manner which does not permit the identification of a living individual, or
- (c) without the processing, the RAS purposes cannot be fulfilled.”

**Member's explanatory statement**

This amendment replaces and clarifies the restriction in new Article 84B(2) and (3) of the UK GDPR on processing of personal data for research, archiving or statistical purposes. It makes clear that processing carried out for the purpose of anonymising personal data is permitted.

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**Sir John Whittingdale**

**Gov 36**

☆ Clause 22, page 36, line 31, leave out “2” and insert “3A”

**Member's explanatory statement**

This amendment is consequential on Amendment 35.

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**Sir John Whittingdale**

**Gov 37**

☆ Clause 22, page 36, line 34, at end insert—

“5. Processing of personal data for RAS purposes must be carried out subject to appropriate safeguards for the rights and freedoms of the data subject.”

**Member's explanatory statement**

See the explanatory statement for Amendment 34.

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**Sir John Whittingdale**

**Gov 38**

☆ Clause 22, page 37, line 4, leave out "84B(1)" and insert "84B(5)"

**Member's explanatory statement**

This amendment is consequential on Amendments 34 and 37.

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**Sir John Whittingdale**

**Gov 39**

☆ Clause 22, page 38, line 14, leave out "84B(1)" and insert "84B(5)"

**Member's explanatory statement**

This amendment is consequential on Amendments 34 and 37.

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**Sir John Whittingdale**

**Gov 40**

☆ Clause 32, page 57, line 16, leave out paragraphs (a) and (b) insert—

- “(a) for the heading substitute “Vexatious or excessive requests”,
- (b) before subsection (1) insert—

- “(A1) This section makes provision about cases in which a request made to the Commissioner, to which the Commissioner is required or authorised to respond under the data protection legislation, is vexatious or excessive (see section 204A).”,

- (ba) in subsection (1) omit the words from the beginning to “excessive,”,
- (bb) after subsection (1) insert—

- “(1A) In subsection (1)—

- (a) the reference in paragraph (a) to charging a reasonable fee is, in a case in which section 134 is relevant, a reference to doing so under that section, and
- (b) paragraph (b) is not to be read as implying anything about whether the Commissioner may refuse to act on requests that are neither vexatious nor excessive.”,

**Member's explanatory statement**

This amendment adds further amendments of section 135 of the Data Protection Act 2018 to clause 32 to make clear that the Information Commissioner may refuse to deal with a vexatious or excessive request made by any person.

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**Sir John Whittingdale**

**Gov 41**

☆ Clause 32, page 57, line 21, after “(3)” insert “—

- “(i) for “(1)” substitute “(A1)”, and
- (ii)”

**Member's explanatory statement**

This amendment is consequential on Amendment 40.

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**Sir John Whittingdale**

**Gov 47**

★ Clause 42, page 72, line 12, at end insert—

“(7A) In paragraph 13 (modification of section 155 (penalty notices)), in sub-paragraph (3)(c), for “for “data subjects”” there were substituted “for the words from “data subjects” to the end”.”

**Member's explanatory statement**

This amendment inserts an amendment of Schedule 2 to the EITSET Regulations which is consequential on the amendment of section 155(3)(c) of the Data Protection Act 2018 by Schedule 4 to the Bill.

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**Sir John Whittingdale**

**Gov 6**

☆ Clause 58, page 84, line 5, after “55” insert “or (*Information disclosed by the Welsh Revenue Authority*)”

**Member's explanatory statement**

This amendment prevents the Secretary of State requesting a disclosure of information which would contravene the new clause inserted by NC3.

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**Sir John Whittingdale**

**Gov 7**

☆ Clause 58, page 84, line 5, after “55” insert “or (*Information disclosed by Revenue Scotland*)”

**Member's explanatory statement**

This amendment prevents the Secretary of State requesting a disclosure of information which would contravene the new clause inserted by NC4.

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**Sir John Whittingdale**

**Gov 46**

☆ Clause 61, page 85, line 24, after “supplied” insert “or provided”

**Member's explanatory statement**

The definition of “business data” in clause 61 refers to the supply or provision of goods, services and digital content. For consistency with that, this amendment amends an example given in the definition so that it refers to what is provided, as well as what is supplied.

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**Sir John Whittingdale**

**Gov 5**

☆ Clause 78, page 100, line 30, after “86” insert “and [*Codes of conduct*]”



**Member's explanatory statement**

This amendment is consequential on NC2.

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Sir John Whittingdale

Gov 48

- ★ Clause 78, page 100, line 30, after "86" insert "and [*Pre-commencement consultation*]"

**Member's explanatory statement**

This amendment is consequential on NC7.

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Sir John Whittingdale

Gov 49

- ★ Clause 79, page 102, leave out lines 21 to 23

**Member's explanatory statement**

Clause 79 amends regulation 6 of the PEC Regulations to create new exceptions from the prohibition on storing and accessing information in terminal equipment. New paragraph (2C) contains an exception for software updates that satisfy specified requirements. This amendment removes a requirement that the subscriber or user can object to the update and does not object.

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Sir John Whittingdale

Gov 50

- ★ Clause 79, page 102, line 25, leave out "disable or"

**Member's explanatory statement**

Clause 79 amends regulation 6 of the PEC Regulations to create new exceptions from the prohibition on storing and accessing information in terminal equipment. New paragraph (2C) contains an exception for software updates that satisfy specified requirements. This amendment removes a requirement for subscribers and users to be able to disable, not just postpone, the update.

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Sir John Whittingdale

Gov 51

- ★ Clause 79, page 102, leave out lines 27 to 29

**Member's explanatory statement**

Clause 79 amends regulation 6 of the PEC Regulations to create new exceptions from the prohibition on storing and accessing information in terminal equipment. New paragraph (2C) contains an exception for software updates that satisfy specified requirements. This amendment removes a requirement that, where the update takes effect, the subscriber or user can remove or disable the software.

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Sir John Whittingdale

Gov 52

- ★ Clause 79, page 104, line 20, leave out "or supplementary provision" and insert ", supplementary, transitional, transitory or saving provision, including provision"

**Member's explanatory statement**

This amendment provides that regulations under the new regulation 6A of the PEC Regulations, inserted by clause 79, can include transitional, transitory or saving provision.

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**Sir John Whittingdale**

**Gov 53**

- ★ Clause 79, page 105, line 11, after “transitional” insert “, transitory”

**Member's explanatory statement**

This amendment makes clear that regulations under the new regulation 6B of the PEC Regulations, inserted by clause 79, can include transitory provision.

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**Sir John Whittingdale**

**Gov 54**

- ★ Clause 79, page 105, line 15, at end insert—

“(aa) the Competition and Markets Authority, and”

**Member's explanatory statement**

This amendment requires the Secretary of State to consult the Competition and Markets Authority before making regulations under regulation 6B of the PEC Regulations.

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**Sir John Whittingdale**

**Gov 55**

- ★ Clause 83, page 107, line 41, leave out “or transitional” and insert “, transitional, transitory or saving”

**Member's explanatory statement**

This amendment provides that regulations under clause 83 can make transitory or saving provision.

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**Sir John Whittingdale**

**Gov 31**

- ☆ Clause 84, page 110, line 31, leave out “fourth day after” and insert “period of 30 days beginning with the day after”

**Member's explanatory statement**

Clauses 83 and 84 enable regulations to make exceptions from direct marketing rules in the PEC Regulations, including for certain processing by elected representatives. This amendment increases the period for which former members of the Westminster Parliament and the devolved legislatures continue to be treated as “elected representatives” following an election. See also NC6 and Amendment 30.

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Sir John Whittingdale

Gov 56

★ Clause 85, page 112, line 35, at end insert—

“(13A) Regulations under paragraph (13) may make transitional provision.

(13B) Before making regulations under paragraph (13), the Secretary of State must consult—

(a) the Commissioner, and

(b) such other persons as the Secretary of State considers appropriate.”

**Member's explanatory statement**

This amendment enables regulations changing the amount of a fixed penalty under regulation 26B of the PEC Regulations to include transitional provision. It also requires the Secretary of State to consult the Information Commissioner and such other persons as the Secretary of State considers appropriate before making such regulations.

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Sir John Whittingdale

Gov 33

☆ Clause 85, page 113, line 28, at end insert—

“(4) After regulation 18 insert—

**“Direct marketing**

**18A—(1)** Regulations 19 to 26C make provision about direct marketing.

(2) See also section 83 of the Data Protection and Digital Information Act 2023 (which provides for regulations to make exceptions to regulations 19 to 24).”

**Member's explanatory statement**

This amendment inserts into the PEC Regulations provision introducing the regulations dealing with direct marketing (including regulations amended or inserted by the Bill) and cross-referring to the regulation-making power in clause 83 of the Bill.

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Sir John Whittingdale

Gov 57

★ Clause 85, page 113, line 38, at end insert—

“(13A) Regulations under paragraph (13) may make transitional provision.

(13B) Before making regulations under paragraph (13), the Secretary of State must consult—

(a) the Information Commissioner, and

(b) such other persons as the Secretary of State considers appropriate.”

**Member's explanatory statement**

This amendment enables regulations changing the amount of a fixed penalty under regulation 5C of the PEC Regulations to include transitional provision. It also requires the Secretary of State to

consult the Information Commissioner and such other persons as the Secretary of State considers appropriate before making such regulations.

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**Sir John Whittingdale**

**Gov 32**

- ☆ Schedule 10, page 180, line 25, leave out “for “data subjects”” and insert “for the words from “data subjects” to the end”

**Member's explanatory statement**

This amendment adjusts provision applying section 155(3)(c) of the Data Protection Act 2018 (penalty notices) for the purposes of the PEC Regulations to take account of the amendment of section 155(3)(c) by Schedule 4 to the Bill.

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**Sir John Whittingdale**

**Gov 58**

- ★ Schedule 10, page 183, line 5, at end insert “15”

**Member's explanatory statement**

This amendment inserts a missing Schedule number, so that the provision refers to Schedule 15 to the Data Protection Act 2018.

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**Sir John Whittingdale**

**Gov 8**

- ☆ Clause 93, page 119, line 18, leave out first “Secretary of State” and insert “appropriate national authority”

**Member's explanatory statement**

This amendment, Amendment 10 and NC5 enable the regulation-making power conferred by clause 93 to be exercised concurrently by the Secretary of State and, in relation to devolved matters, by Scottish Ministers and Welsh Ministers.

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**Sir John Whittingdale**

**Gov 9**

- ☆ Clause 93, page 119, line 18, leave out second “Secretary of State” and insert “authority”

**Member's explanatory statement**

This amendment is consequential on Amendment 8.

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**Sir John Whittingdale**

**Gov 10**

- ☆ Clause 93, page 119, line 36, at end insert—

““appropriate national authority” has the meaning given in section (*Meaning of “appropriate national authority”*);”

**Member's explanatory statement**

See the explanatory statement for Amendment 8.

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**Sir John Whittingdale**

**Gov 44**

- ☆ Schedule 13, page 195, line 21, after "members" insert "or in accordance with paragraph 23A"

**Member's explanatory statement**

This amendment is consequential on Amendment 45.

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**Sir John Whittingdale**

**Gov 45**

- ☆ Schedule 13, page 204, line 6, at end insert—

*"Transitional provision: interim chief executive*

- 23A(1) The first chief executive of the Commission is to be appointed by the chair of the Commission.
- (2) Before making the appointment the chair must consult the Secretary of State.
  - (3) The appointment must be for a term of not more than 2 years.
  - (4) The chair may extend the term of the appointment but not so the term as extended is more than 2 years.
  - (5) For the term of appointment, the person appointed under sub-paragraph (1) is "the interim chief executive".
  - (6) Until the expiry of the term of appointment, the powers conferred on the non-executive members by paragraph 11(2) and (3) are exercisable in respect of the interim chief executive by the chair (instead of by the non-executive members).
  - (7) In sub-paragraphs (5) and (6), the references to the term of appointment are to the term of appointment described in sub-paragraph (3), including any extension of the term under sub-paragraph (4)."

**Member's explanatory statement**

The Bill establishes the Information Commission. This new paragraph enables the chair of the new body, in consultation with the Secretary of State, to appoint the first chief executive (as opposed to the appointment being made by non-executive members). It also enables the chair to determine the terms and conditions, pay, pensions etc relating to the appointment.

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**Sir John Whittingdale**

**Gov 11**

- ☆ Clause 108, page 131, line 2, after "Act" insert "made by the Secretary of State, the Treasury or the Welsh Ministers"

**Member's explanatory statement**

This amendment is consequential on Amendments 8 and 10 and NC5.

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**Sir John Whittingdale**

**Gov 12**

☆ Clause 108, page 131, line 2, at end insert—

“(1A) For regulations under this Act made by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (Scottish statutory instruments).”

**Member's explanatory statement**

This amendment is consequential on Amendments 8 and 10 and NC5.

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**Sir John Whittingdale**

**Gov 13**

☆ Clause 108, page 131, line 3, after “Act” insert “made by the Secretary of State or the Treasury”

**Member's explanatory statement**

This amendment is consequential on Amendments 8 and 10 and NC5.

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**Sir John Whittingdale**

**Gov 14**

☆ Clause 108, page 131, line 8, after “procedure” insert “—

(a) if made by the Secretary of State or the Treasury,”

**Member's explanatory statement**

This amendment is consequential on Amendments 8 and 10 and NC5.

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**Sir John Whittingdale**

**Gov 15**

☆ Clause 108, page 131, line 9, at end insert—

“(b) if made by the Scottish Ministers, the regulations are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10));

(c) if made by the Welsh Ministers, the statutory instrument containing the regulations is subject to annulment in pursuance of a resolution of Senedd Cymru.”

**Member's explanatory statement**

This amendment is consequential on Amendments 8 and 10 and NC5. It makes provision about the meaning of the negative resolution procedure in connection with regulations made by Scottish Ministers or Welsh Ministers.

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Sir John Whittingdale

Gov 16

☆ Clause 108, page 131, line 10, after “Act” insert “made by the Secretary of State or the Treasury”

**Member's explanatory statement**

This amendment is consequential on Amendments 8 and 10 and NC5.

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Sir John Whittingdale

Gov NC1

☆ To move the following Clause—

**“General processing and codes of conduct**

In Article 41 of the UK GDPR (monitoring of approved codes of conduct)—

- (a) in paragraph 4, omit the words from “, including suspension” to the end, and
- (b) after that paragraph insert—

“4A. If the action taken by a body under paragraph 4 consists of suspending or excluding a controller or processor from the code, the body must inform the Commissioner, giving reasons for taking that action.””

**Member's explanatory statement**

This new clause clarifies that bodies accredited under Article 41 of the UK GDPR to monitor compliance with codes of conduct under Article 40 are only required to notify the Information Commissioner if they suspend or exclude a person from a code.

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Sir John Whittingdale

Gov NC2

☆ To move the following Clause—

**“Codes of conduct**

- (1) The PEC Regulations are amended as follows.
- (2) After regulation 32 insert—

**“Codes of conduct**

**32A**—(1) The Commissioner must encourage representative bodies to produce codes of conduct intended to contribute to compliance with these Regulations.

(2) Under paragraph (1), the Commissioner must encourage representative bodies to produce codes which take account of, among other things, the specific features of different sectors.

(3) A code of conduct described in paragraph (1) may, for example, make provision with regard to—

- (a) rights and obligations under these Regulations;
  - (b) out-of-court proceedings and other dispute resolution procedures for resolving disputes arising in connection with these Regulations.
- (4) The Commissioner must encourage representative bodies to submit codes of conduct described in paragraph (1) to the Commissioner in draft.
- (5) Where a representative body does so, the Commissioner must—
- (a) provide the representative body with an opinion on whether the code correctly reflects the requirements of these Regulations,
  - (b) decide whether to approve the code, and
  - (c) if the code is approved, register and publish the code.
- (6) The Commissioner may only approve a code if, among other things—
- (a) the code contains a mechanism for monitoring whether persons who undertake to apply the code comply with its provisions, and
  - (b) in relation to persons other than public bodies, the mechanism involves monitoring by a body which is accredited for that purpose by the Commissioner under regulation 32B.
- (7) In relation to amendments of a code of conduct that is for the time being approved under this regulation—
- (a) paragraphs (4) and (5) apply as they apply in relation to a code, and
  - (b) the requirements in paragraph (6) must be satisfied by the code as amended.
- (8) A code of conduct described in paragraph (1) may be contained in the same document as a code of conduct described in Article 40 of the UK GDPR (and a provision contained in such a document may be a provision of both codes).
- (9) In this regulation—
- “public body” has the meaning given in section 7 of the Data Protection Act 2018 (for the purposes of the UK GDPR);
- “representative body” means an association or other body representing categories of—
- (a) communications providers, or
  - (b) other persons engaged in activities regulated by these Regulations;
- “the UK GDPR” has the meaning given in section 3(10) of the Data Protection Act 2018.

### **Accreditation of bodies monitoring compliance with codes of conduct**

**32B.—**(1) The Commissioner may, in accordance with this regulation, accredit a body for the purpose of monitoring whether persons other than public bodies comply with a code of conduct described in regulation 32A(1).

(2) The Commissioner may accredit a body only where the Commissioner is satisfied that the body has—

- (a) demonstrated its independence,



- (b) demonstrated that it has an appropriate level of expertise in relation to the subject matter of the code,
- (c) established procedures which allow it—
  - (i) to assess a person's eligibility to apply the code,
  - (ii) to monitor compliance with the code, and
  - (iii) to review the operation of the code periodically,
- (d) established procedures and structures to handle complaints about infringements of the code or about the manner in which the code has been, or is being, implemented by a person,
- (e) made arrangements to publish information about the procedures and structures described in sub-paragraph (d), and
- (f) demonstrated that it does not have a conflict of interest.

(3) The Commissioner must prepare and publish guidance about how the Commissioner proposes to take decisions about accreditation under this regulation.

(4) A body accredited under this regulation in relation to a code must take appropriate action where a person infringes the code.

(5) If the action taken by a body under paragraph (4) consists of suspending or excluding a person from the code, the body must inform the Commissioner, giving reasons for taking that action.

(6) The Commissioner must revoke the accreditation of a body under this regulation if the Commissioner considers that the body—

- (a) no longer meets the requirements for accreditation, or
- (b) has failed, or is failing, to comply with paragraph (4) or (5).

(7) In this regulation, "public body" has the same meaning as in regulation 32A.

### **Effect of codes of conduct**

**32C.** Adherence to a code of conduct approved under regulation 32A may be used by a person as a means of demonstrating compliance with these Regulations."

- (3) In regulation 33 (technical advice to the Commissioner)—
  - (a) omit ", in connection with his enforcement functions," and
  - (b) at the end insert "where the request is made in connection with—
    - (a) the Commissioner's enforcement functions, or
    - (b) the Commissioner's functions under regulation 32A or 32B (codes of conduct)."
- (4) In Schedule 1 (Information Commissioner's enforcement powers) (inserted by Schedule 10 to this Act), in paragraph 18(b)(ii) (maximum amount of penalty), for "or 24" substitute ", 24 or 32B(4) or (5)".

**Member's explanatory statement**

This new clause inserts provision requiring the Information Commissioner to encourage representative bodies to prepare codes of conduct relating to compliance with the PEC Regulations and makes provision about the content of such codes.

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Sir John Whittingdale

Gov NC3

☆ To move the following Clause—

**“Information disclosed by the Welsh Revenue Authority**

- (1) This section applies where the Welsh Revenue Authority discloses personal information to a person under section 54 for the purpose of enabling the person to provide digital verification services for an individual.
- (2) The person must not further disclose the information otherwise than for the purpose of providing digital verification services for the individual, except with the consent of the Welsh Revenue Authority.
- (3) Any other person who receives the information, whether directly or indirectly from the person to whom the Welsh Revenue Authority discloses the information, must not further disclose the information, except with the consent of the Welsh Revenue Authority.
- (4) A person who discloses information in contravention of subsection (2) or (3) commits an offence.
- (5) It is a defence for a person charged with an offence under subsection (4) 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.
- (6) A person who commits an offence under subsection (4) is liable—
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
  - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
  - (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (7) In this section, “personal information” means information relating to a person whose identity—
  - (a) is specified in the information, or
  - (b) can be deduced from it.”

**Member's explanatory statement**

If the Welsh Revenue Authority discloses information under clause 54, this new clause prevents further disclosure of that information without the consent of the Welsh Revenue Authority.

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Sir John Whittingdale

Gov NC4

☆ To move the following Clause—

**“Information disclosed by Revenue Scotland**

- (1) This section applies where Revenue Scotland discloses personal information to a person under section 54 for the purpose of enabling the person to provide digital verification services for an individual.
- (2) The person must not further disclose the information otherwise than for the purpose of providing digital verification services for the individual, except with the consent of Revenue Scotland.
- (3) Any other person who receives the information, whether directly or indirectly from the person to whom Revenue Scotland discloses the information, must not further disclose the information, except with the consent of Revenue Scotland.
- (4) A person who discloses information in contravention of subsection (2) or (3) commits an offence.
- (5) It is a defence for a person charged with an offence under subsection (4) 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.
- (6) A person who commits an offence under subsection (4) is liable—
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
  - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
  - (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (7) In this section, “personal information” means information relating to a person whose identity—
  - (a) is specified in the information, or
  - (b) can be deduced from it.”

**Member's explanatory statement**

If Revenue Scotland discloses information under clause 54, this new clause prevents further disclosure of that information without the consent of Revenue Scotland.

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Sir John Whittingdale

Gov NC5

☆ To move the following Clause—

**“Meaning of “appropriate national authority”**

- (1) In section 93, “appropriate national authority” means the Secretary of State, subject as follows.
- (2) The Scottish Ministers are also an appropriate national authority in relation to regulations under section 93 which contain only provision which would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament.
- (3) The Welsh Ministers are also an appropriate national authority in relation to regulations under section 93 which contain only provision which would be within the legislative competence of Senedd Cymru if contained in an Act of the Senedd (ignoring any requirement for the consent of a Minister of the Crown).
- (4) The consent of a Minister of the Crown is required before any provision is made by the Welsh Ministers in regulations under section 93 so far as that provision, if contained in an Act of Senedd Cymru, would require the consent of a Minister of the Crown.
- (5) In Schedule 7B to the Government of Wales Act 2006 (general restrictions on legislative competence of Senedd Cymru), in paragraph 11(6)(b) (exceptions to restrictions relating to Ministers of the Crown)—
  - (a) omit the “or” at the end of sub-paragraph (viii), and
  - (b) after sub-paragraph (ix) insert “; or
    - (x) section 93 of the Data Protection and Digital Information Act 2023.”
- (6) In this section, “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.”

**Member's explanatory statement**

This new clause makes provision about the exercise of the regulation-making power conferred by clause 93 on the Secretary of State, Scottish Ministers and Welsh Ministers. See also Amendments 8, 9 and 10.

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Sir John Whittingdale

Gov NC6

☆ To move the following Clause—

**“Special categories of personal data: elected representatives responding to requests**

In paragraph 23 of Schedule 1 to the 2018 Act (special categories of personal data: elected representatives responding to requests), in sub-paragraph (4), for “fourth day after” substitute “period of 30 days beginning with the day after”.

**Member's explanatory statement**

Schedule 1 to the Data Protection Act 2018 includes provision about certain processing of special categories of personal data by elected representatives. This new clause increases the period for which former members of the Westminster Parliament and the devolved legislatures continue to be treated as “elected representatives” following an election. See also Amendments 30 and 31.

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Sir John Whittingdale

Gov NC7

★ To move the following Clause—

**“Pre-commencement consultation**

- (1) A requirement to consult under section 83 may be satisfied by consultation before, as well as by consultation after, that section comes into force.
- (2) A requirement to consult under a provision inserted into the PEC Regulations by any of sections 79 to 86 may be satisfied by consultation before, as well as by consultation after, the provision inserting that provision comes into force.”

**Member's explanatory statement**

This new clause provides that requirements imposed by the Bill to consult under or in connection with the PEC Regulations can be satisfied by consultation which takes place before the relevant provision of the Bill comes into force.

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## Order of the House

[17 April 2023]

That the following provisions shall apply to the Data Protection and Digital Information (No. 2) Bill:

**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 13 June 2023.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

#### **Consideration and Third Reading**

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings 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 Third Reading.

#### **Other proceedings**

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

## Order of the Committee

[10 May 2023]

That—

1. the Committee shall (in addition to its first meeting at 9.25 am on Wednesday 10 May) meet—
  - (a) at 2.00 pm on Wednesday 10 May;
  - (b) at 9.25 am and 2.00 pm on Tuesday 16 May;
  - (c) at 11.30 am and 2.00 pm on Thursday 18 May;
  - (d) at 9.25 am and 2.00 pm on Tuesday 23 May;
  - (e) at 9.25 am and 2.00 pm on Tuesday 6 June;
  - (f) at 11.30 am and 2.00 pm on Thursday 8 June;
  - (g) at 9.25 am and 2.00 pm on Tuesday 13 June;
2. the Committee shall hear oral evidence in accordance with the following Table:

Date	Time	Witness
Wednesday 10 May	Until no later than 9.55 am	Information Commissioner's Office

Date	Time	Witness
Wednesday 10 May	Until no later than 10.25 am	Hogan Lovells; London Stock Exchange Group; Centre for Information Policy Leadership
Wednesday 10 May	Until no later than 10.50 am	techUK; Data & Marketing Association
Wednesday 10 May	Until no later than 11.25 am	Connected by Data; Institute for the Future of Work; Ada Lovelace Institute
Wednesday 10 May	Until no later than 2.25 pm	Medtronic; UK Biobank
Wednesday 10 May	Until no later than 2.50 pm	ZILO; UK Finance
Wednesday 10 May	Until no later than 3.05 pm	Better Hiring Institute
Wednesday 10 May	Until no later than 3.30 pm	National Crime Agency; Metropolitan Police
Wednesday 10 May	Until no later than 3.55 pm	Prospect; Trades Union Congress
Wednesday 10 May	Until no later than 4.25 pm	Public Law Project; Law Society of Scotland; Rights and Security International
Wednesday 10 May	Until no later than 4.40 pm	AWO

3. proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 5; Schedule 1; Clause 6; Schedule 2; Clauses 7 to 11; Schedule 3; Clauses 12 to 20; Schedule 4; Clause 21; Schedules 5 to 7; Clauses 22 to 41; Schedule 8; Clauses 42 to 45; Schedule 9; Clauses 46 to 86; Schedule 10; Clauses 87 to 98; Schedule 11; Clause 99; Schedule 12; Clause 100; Schedule 13; Clauses 101 to 114; new Clauses; new Schedules; remaining proceedings on the Bill;
4. the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 13 June.