
Report Stage: Monday 27 November 2023

Data Protection and Digital Information Bill

(Amendment Paper)

This document lists all amendments tabled to the Data Protection and Digital Information 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 Any withdrawn amendments are listed at the end of the document.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: 230 to 233, 235 to 281, NC45 to NC48 and NS3

Secretary Michelle Donelan

Gov NC6

To move the following Clause—

“Processing in reliance on relevant international law

- (1) The UK GDPR is amended in accordance with subsections (2) to (5).
- (2) In Article 6(3) (lawfulness of processing: basis in domestic law)—
 - (a) in the first subparagraph, omit “and (e)”,
 - (b) after that subparagraph insert—

“The basis for the processing referred to in point (e) of paragraph 1 must be laid down by domestic law or relevant international law (see section 9A of the 2018 Act).”, and
 - (c) in the last subparagraph, in the last sentence, after “domestic law” insert “or relevant international law”.
- (3) In Article 8A(3)(e) (purpose limitation: further processing necessary to safeguard an objective listed in Article 23(1)) (inserted by section 6 of this Act), at the end insert “or by relevant international law (see section 9A of the 2018 Act)”.
- (4) In Article 9 (processing of special categories of personal data)—
 - (a) in paragraph 2(g) (substantial public interest), after “domestic law” insert “, or relevant international law,”, and

- (b) in paragraph 5, before point (a) insert—
 - “(za) section 9A makes provision about when the requirement in paragraph 2(g) of this Article for a basis in relevant international law is met;”.
- (5) In Article 10 (processing of personal data relating to criminal convictions and offences)—
 - (a) in paragraph 1, after “domestic law” insert “, or relevant international law,”, and
 - (b) in paragraph 2, before point (a) insert—
 - “(za) section 9A makes provision about when the requirement in paragraph 1 of this Article for authorisation by relevant international law is met;”.
- (6) The 2018 Act is amended in accordance with subsections (7) and (8).
- (7) Before section 10 (and the italic heading before that section) insert—

“Relevant international law

9A Processing in reliance on relevant international law

- (1) Processing of personal data meets the requirement in Article 6(3), 8A(3)(e), 9(2)(g) or 10(1) of the UK GDPR for a basis in, or authorisation by, relevant international law only if it meets a condition in Schedule A1.
- (2) A condition in Schedule A1 may be relied on for the purposes of any of those provisions, unless that Schedule provides otherwise.
- (3) The Secretary of State may by regulations amend Schedule A1 by adding, varying or omitting—
 - (a) conditions,
 - (b) provision about the purposes for which a condition may be relied on, and
 - (c) safeguards in connection with processing carried out in reliance on a condition in the Schedule.
- (4) Regulations under this section may only add a condition relating entirely or partly to a treaty ratified by the United Kingdom.
- (5) Regulations under this section are subject to the affirmative resolution procedure.
- (6) In this section, “treaty” and “ratified” have the same meaning as in Part 2 of the Constitutional Reform and Governance Act 2010 (see section 25 of that Act).”

(8) Before Schedule 1 insert—

“SCHEDULE A1

Section 9A

PROCESSING IN RELIANCE ON RELEVANT INTERNATIONAL LAW

This condition is met where the processing is necessary for the purposes of responding to a request made in accordance with the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America on Access to Electronic Data for the Purpose of Countering Serious Crime, signed on 3 October 2019.””

Member's explanatory statement

This new clause provides expressly that, for the purposes of satisfying requirements in Articles 6(1)(e), 8A(3)(e), 9(2)(g) and 10(1) of the UK GDPR, a controller or processor may rely on processing having a basis in, or being authorised by, certain international law.

Secretary Michelle Donelan

Gov NC48

★ To move the following Clause—

“Processing of personal data revealing political opinions

(1) Schedule 1 to the Data Protection Act 2018 (special categories of personal data) is amended in accordance with subsections (2) to (5).

(2) After paragraph 21 insert—

“Democratic engagement

21A(1) This condition is met where—

- (a) the personal data processed is personal data revealing political opinions,
- (b) the data subject is aged 14 or over, and
- (c) the processing falls within sub-paragraph (2), subject to the exceptions in sub-paragraphs (3) and (4).

(2) Processing falls within this sub-paragraph if—

- (a) the processing—
 - (i) is carried out by an elected representative or a person acting with the authority of such a representative, and
 - (ii) is necessary for the purposes of discharging the elected representative's functions or for the purposes of the elected representative's democratic engagement activities,
- (b) the processing—
 - (i) is carried out by a registered political party, and
 - (ii) is necessary for the purposes of the party's election activities or democratic engagement activities,
- (c) the processing—

- (i) is carried out by a candidate for election as an elected representative or a person acting with the authority of such a candidate, and
 - (ii) is necessary for the purposes of the candidate's campaign for election,
 - (d) the processing—
 - (i) is carried out by a permitted participant in relation to a referendum or a person acting with the authority of such a person, and
 - (ii) is necessary for the purposes of the permitted participant's campaigning in connection with the referendum, or
 - (e) the processing—
 - (i) is carried out by an accredited campaigner in relation to a recall petition or a person acting with the authority of such a person, and
 - (ii) is necessary for the purposes of the accredited campaigner's campaigning in connection with the recall petition.
- (3) Processing does not meet the condition in sub-paragraph (1) if it is likely to cause substantial damage or substantial distress to an individual.
- (4) Processing does not meet the condition in sub-paragraph (1) if—
 - (a) an individual who is the data subject (or one of the data subjects) has given notice in writing to the controller requiring the controller not to process personal data in respect of which the individual is the data subject (and has not given notice in writing withdrawing that requirement),
 - (b) the notice gave the controller a reasonable period in which to stop processing such data, and
 - (c) that period has ended.
- (5) For the purposes of sub-paragraph (2)(a) and (b)—
 - (a) "democratic engagement activities" means activities whose purpose is to support or promote democratic engagement;
 - (b) "democratic engagement" means engagement by the public, a section of the public or a particular person with, or with an aspect of, an electoral system or other democratic process in the United Kingdom, either generally or in connection with a particular matter, whether by participating in the system or process or engaging with it in another way;
 - (c) examples of democratic engagement activities include activities whose purpose is—
 - (i) to promote the registration of individuals as electors;
 - (ii) to increase the number of electors participating in elections for elected representatives, referendums or

- processes for recall petitions in which they are entitled to participate;
- (iii) to support an elected representative or registered political party in discharging functions, or carrying on other activities, described in sub-paragraph (2)(a) or (b);
 - (iv) to support a person to become a candidate for election as an elected representative;
 - (v) to support a campaign or campaigning referred to in sub-paragraph (2)(c), (d) or (e);
 - (vi) to raise funds to support activities whose purpose is described in sub-paragraphs (i) to (v);
- (d) examples of activities that may be democratic engagement activities include—
- (i) gathering opinions, whether by carrying out a survey or by other means;
 - (ii) communicating with electors.
- (6) In this paragraph—
- “accredited campaigner” has the meaning given in Part 5 of Schedule 3 to the Recall of MPs Act 2015;
- “candidate”, in relation to election as an elected representative, has the meaning given by the provision listed in the relevant entry in the second column of the table in sub-paragraph (7);
- “elected representative” means a person listed in the first column of the table in sub-paragraph (7) and see also sub-paragraphs (8) to (10);
- “election activities”, in relation to a registered political party, means—
- (a) campaigning in connection with an election for an elected representative, and
 - (b) activities whose purpose is to enhance the standing of the party, or of a candidate standing for election in its name, with electors;
- “elector” means a person who is entitled to vote in an election for an elected representative or in a referendum;
- “permitted participant” has the same meaning as in Part 7 of the Political Parties, Elections and Referendums Act 2000 (referendums) (see section 105 of that Act);
- “recall petition” has the same meaning as in the Recall of MPs Act 2015 (see section 1(2) of that Act);
- “referendum” means a referendum or other poll held on one or more questions specified in, or in accordance with, an enactment;
- “registered political party” means a person or organisation included in a register maintained under section 23 of the Political Parties, Elections and Referendums Act 2000;

“successful”, in relation to a recall petition, has the same meaning as in the Recall of MPs Act 2015 (see section 14 of that Act).

- (7) This is the table referred to in the definitions of “candidate” and “elected representative” in sub-paragraph (6)—

<i>Elected representative</i>	<i>Candidate for election as an elected representative</i>
(a) a member of the House of Commons	section 118A of the Representation of the People Act 1983
(b) a member of the Senedd	article 84(2) of the National Assembly for Wales (Representation of the People) Order 2007 (S.I. 2007/236)
(c) a member of the Scottish Parliament	article 80(1) of the Scottish Parliament (Elections etc) Order 2015 (S.S.I. 2015/425)
(d) a member of the Northern Ireland Assembly	section 118A of the Representation of the People Act 1983, as applied by the Northern Ireland Assembly (Elections) Order 2001 (S.I. 2001/2599)
(e) an elected member of a local authority within the meaning of section 270(1) of the Local Government Act 1972, namely— (i) in England, a county council, a district council, a London borough council or a parish council; (ii) in Wales, a county council, a county borough council or a community council;	section 118A of the Representation of the People Act 1983
(f) an elected mayor of a local authority within the meaning of Part 1A or 2 of the Local Government Act 2000	section 118A of the Representation of the People Act 1983, as applied by the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 (S.I. 2007/1024)
(g) a mayor for the area of a combined authority	section 118A of the Representation of the People Act

<i>Elected representative</i>	<i>Candidate for election as an elected representative</i>
established under section 103 of the Local Democracy, Economic Development and Construction Act 2009	1983, as applied by the Combined Authorities (Mayoral Elections) Order 2017 (S.I. 2017/67)
(h) a mayor for the area of a combined county authority established under section 9 of the Levelling-up and Regeneration Act 2023	section 118A of the Representation of the People Act 1983, as applied by the Combined Authorities (Mayoral Elections) Order 2017 (S.I. 2017/67)
(i) the Mayor of London or an elected member of the London Assembly	section 118A of the Representation of the People Act 1983
(j) an elected member of the Common Council of the City of London	section 118A of the Representation of the People Act 1983
(k) an elected member of the Council of the Isles of Scilly	section 118A of the Representation of the People Act 1983
(l) an elected member of a council constituted under section 2 of the Local Government etc (Scotland) Act 1994	section 118A of the Representation of the People Act 1983
(m) an elected member of a district council within the meaning of the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.))	section 130(3A) of the Electoral Law Act (Northern Ireland) 1962 (c. 14 (N.I.))
(n) a police and crime commissioner	article 3 of the Police and Crime Commissioner Elections Order 2012 (S.I. 2012/1917)

- (8) For the purposes of the definition of “elected representative” in sub-paragraph (6), a person who is—
- (a) a member of the House of Commons immediately before Parliament is dissolved,
 - (b) a member of the Senedd immediately before Senedd Cymru is dissolved,
 - (c) a member of the Scottish Parliament immediately before that Parliament is dissolved, or
 - (d) a member of the Northern Ireland Assembly immediately before that Assembly is dissolved,

is to be treated as if the person were such a member until the end of the period of 30 days beginning with the day after the day on which the subsequent general election in relation to that Parliament or Assembly is held.

- (9) For the purposes of the definition of “elected representative” in sub-paragraph (6), where a member of the House of Commons’s seat becomes vacant as a result of a successful recall petition, that person is to be treated as if they were a member of the House of Commons until the end of the period of 30 days beginning with the day after—
 - (a) the day on which the resulting by-election is held, or
 - (b) if earlier, the day on which the next general election in relation to Parliament is held.
- (10) For the purposes of the definition of “elected representative” in sub-paragraph (6), a person who is an elected member of the Common Council of the City of London and whose term of office comes to an end at the end of the day preceding the annual Wardmotes is to be treated as if the person were such a member until the end of the fourth day after the day on which those Wardmotes are held.”
- (3) Omit paragraph 22 and the italic heading before it.
- (4) In paragraph 23 (elected representatives responding to requests)—
 - (a) leave out sub-paragraphs (3) to (5), and
 - (b) at the end insert—
 - “(6) In this paragraph, “elected representative” has the same meaning as in paragraph 21A.”
- (5) In paragraph 24(3) (definition of “elected representative”), for “23” substitute “21A”.
- (6) In section 205(2) of the 2018 Act (general interpretation: periods of time), in paragraph (i), for “paragraph 23(4) and (5)” substitute “paragraph 21A(8) to (10)”.

Member's explanatory statement

This new Clause inserts into Schedule 1 to the Data Protection Act 2018 (conditions for processing of special categories of personal data) a condition relating to processing by elected representatives, registered political parties and others of information about an individual’s political opinions for the purposes of democratic engagement activities and campaigning.

Secretary Michelle Donelan

Gov NC7

To move the following Clause—

“Searches in response to data subjects’ requests

- (1) In Article 15 of the UK GDPR (right of access by the data subject)—

- (a) after paragraph 1 insert—
 - “1A. Under paragraph 1, the data subject is only entitled to such confirmation, personal data and other information as the controller is able to provide based on a reasonable and proportionate search for the personal data and other information described in that paragraph.”, and
 - (b) in paragraph 3, after “processing” insert “to which the data subject is entitled under paragraph 1”.
- (2) The 2018 Act is amended in accordance with subsections (3) and (4).
- (3) In section 45 (law enforcement processing: right of access by the data subject), after subsection (2) insert—
 - “(2A) Under subsection (1), the data subject is only entitled to such confirmation, personal data and other information as the controller is able to provide based on a reasonable and proportionate search for the personal data and other information described in that subsection.”
- (4) In section 94 (intelligence services processing: right of access by the data subject), after subsection (2) insert—
 - “(2ZA) Under subsection (1), the data subject is only entitled to such confirmation, personal data and other information as the controller is able to provide based on a reasonable and proportionate search for the personal data and other information described in that subsection.”
- (5) The amendments made by this section are to be treated as having come into force on 1 January 2024.”

Member's explanatory statement

This new clause confirms that, in responding to subject access requests, controllers are only required to undertake reasonable and proportionate searches for personal data and other information.

Secretary Michelle Donelan

Gov NC8

To move the following Clause—

“Notices from the Information Commissioner

- (1) The 2018 Act is amended in accordance with subsections (2) and (3).
- (2) Omit section 141 (notices from the Commissioner).
- (3) After that section insert—

“141A Notices from the Commissioner

- (1) This section applies in relation to a notice authorised or required by this Act to be given to a person by the Commissioner.
- (2) The notice may be given to the person by—
 - (a) delivering it by hand to a relevant individual,

- (b) leaving it at the person's proper address,
 - (c) sending it by post to the person at that address, or
 - (d) sending it by email to the person's email address.
 - (3) A "relevant individual" means—
 - (a) in the case of a notice to an individual, that individual;
 - (b) in the case of a notice to a body corporate (other than a partnership), an officer of that body;
 - (c) in the case of a notice to a partnership, a partner in the partnership or a person who has the control or management of the partnership business;
 - (d) in the case of a notice to an unincorporated body (other than a partnership), a member of its governing body.
 - (4) For the purposes of subsection (2)(b) and (c), and section 7 of the Interpretation Act 1978 (services of documents by post) in its application to those provisions, a person's proper address is—
 - (a) in a case where the person has specified an address as one at which the person, or someone acting on the person's behalf, will accept service of notices or other documents, that address;
 - (b) in any other case, the address determined in accordance with subsection (5).
 - (5) The address is—
 - (a) in a case where the person is a body corporate with a registered office in the United Kingdom, that office;
 - (b) in a case where paragraph (a) does not apply and the person is a body corporate, partnership or unincorporated body with a principal office in the United Kingdom, that office;
 - (c) in any other case, an address in the United Kingdom at which the Commissioner believes, on reasonable grounds, that the notice will come to the attention of the person.
 - (6) A person's email address is—
 - (a) an email address published for the time being by that person as an address for contacting that person, or
 - (b) if there is no such published address, an email address by means of which the Commissioner believes, on reasonable grounds, that the notice will come to the attention of that person.
 - (7) A notice sent by email is treated as given 48 hours after it was sent, unless the contrary is proved.
 - (8) In this section "officer", in relation to a body corporate, means a director, manager, secretary or other similar officer of the body.
 - (9) This section does not limit other lawful means of giving a notice."
- (4) In Schedule 2 to the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 (S.I. 2016/696) (Commissioner's enforcement powers), in paragraph 1(b), for "141" substitute "141A"."

Member's explanatory statement

This amendment adjusts the procedure by which notices can be given by the Information Commissioner under the Data Protection Act 2018. In particular, it enables the Information Commissioner to give notices by email without obtaining the consent of the recipient to use that mode of delivery.

Secretary Michelle Donelan

Gov NC9

To move the following Clause—

“Court procedure in connection with subject access requests

- (1) The Data Protection Act 2018 is amended as follows.
- (2) For the italic heading before section 180 substitute—
“Jurisdiction and court procedure”.

- (3) After section 180 insert—

“180A Procedure in connection with subject access requests

- (1) This section applies where a court is required to determine whether a data subject is entitled to information by virtue of a right under—
 - (a) Article 15 of the UK GDPR (right of access by the data subject);
 - (b) Article 20 of the UK GDPR (right to data portability);
 - (c) section 45 of this Act (law enforcement processing: right of access by the data subject);
 - (d) section 94 of this Act (intelligence services processing: right of access by the data subject).
- (2) The court may require the controller to make available for inspection by the court so much of the information as is available to the controller.
- (3) But, unless and until the question in subsection (1) has been determined in the data subject’s favour, the court may not require the information to be disclosed to the data subject or the data subject’s representatives, whether by discovery (or, in Scotland, recovery) or otherwise.
- (4) Where the question in subsection (1) relates to a right under a provision listed in subsection (1)(a), (c) or (d), this section does not confer power on the court to require the controller to carry out a search for information that is more extensive than the reasonable and proportionate search required by that provision.””

Member's explanatory statement

This new clause makes provision about courts’ powers to require information to be provided to them, and to a data subject, when determining whether a data subject is entitled to information under certain provisions of the data protection legislation.

Secretary Michelle Donelan

Gov NC10

To move the following Clause—

“Approval of a supplementary code

- (1) This section applies to a supplementary code whose content is for the time being determined by a person other than the Secretary of State.
- (2) The Secretary of State must approve the supplementary code if—
 - (a) the code meets the conditions set out in the DVS trust framework (so far as relevant),
 - (b) an application for approval of the code is made which complies with any requirements imposed by a determination under section (*Applications for approval and re-approval*), and
 - (c) the applicant pays any fee required to be paid by a determination under section (*Fees for approval, re-approval and continued approval*)(1).
- (3) The Secretary of State must notify an applicant in writing of the outcome of an application for approval.
- (4) The Secretary of State may not otherwise approve a supplementary code.
- (5) In this Part, an “approved supplementary code” means a supplementary code for the time being approved under this section.
- (6) For when a code ceases (or may cease) to be approved under this section, see sections (*Change to conditions for approval or designation*), (*Revision of a recognised supplementary code*) and (*Request for withdrawal of approval*).”

Member's explanatory statement

This amendment sets out when a supplementary code of someone other than the Secretary of State must be approved by the Secretary of State.

Secretary Michelle Donelan

Gov NC11

To move the following Clause—

“Designation of a supplementary code

- (1) This section applies to a supplementary code whose content is for the time being determined by the Secretary of State.
- (2) If the Secretary of State determines that the supplementary code meets the conditions set out in the DVS trust framework (so far as relevant), the Secretary of State may designate the code as one which complies with the conditions.
- (3) In this Part, a “designated supplementary code” means a supplementary code for the time being designated under this section.
- (4) For when a code ceases (or may cease) to be designated under this section, see sections (*Change to conditions for approval or designation*), (*Revision of a recognised supplementary code*) and (*Removal of designation*).”

Member's explanatory statement

This enables the Secretary of State to designate a supplementary code of the Secretary of State as one which complies with the conditions set out in the DVS trust framework.

Secretary Michelle Donelan

Gov NC12

To move the following Clause—

“List of recognised supplementary codes

- (1) The Secretary of State must—
 - (a) maintain a list of recognised supplementary codes, and
 - (b) make the list publicly available.
- (2) For the purposes of this Part, each of the following is a “recognised supplementary code”—
 - (a) an approved supplementary code, and
 - (b) a designated supplementary code.”

Member's explanatory statement

This amendment places the Secretary of State under a duty to publish, and keep up to date, a list of supplementary codes that are designated or approved.

Secretary Michelle Donelan

Gov NC13

To move the following Clause—

“Change to conditions for approval or designation

- (1) This section applies if the Secretary of State revises the DVS trust framework so as to change the conditions which must be met for the approval or designation of a supplementary code.
- (2) An approved supplementary code which is affected by the change ceases to be an approved supplementary code at the end of the relevant period unless an application for re-approval of the code is made within that period.
- (3) Pending determination of an application for re-approval the supplementary code remains an approved supplementary code.
- (4) Before the end of the relevant period the Secretary of State must —
 - (a) review each designated supplementary code which is affected by the change (if any), and
 - (b) determine whether it meets the conditions as changed.
- (5) If, on a review under subsection (4), the Secretary of State determines that a designated supplementary code does not meet the conditions as changed, the code ceases to be a designated supplementary code at the end of the relevant period.

- (6) A supplementary code is affected by a change if the change alters, or adds, a condition which is or would be relevant to the supplementary code when deciding whether to approve it under section (*Approval of a supplementary code*) or designate it under section (*Designation of a supplementary code*).
- (7) In this section “the relevant period” means the period of 21 days beginning with the day on which the DVS trust framework containing the change referred to in subsection (1) comes into force.
- (8) Section (*Approval of a supplementary code*) applies to re-approval of a supplementary code as it applies to approval of such a code.”

Member's explanatory statement

This amendment provides that when conditions for approval or designation are changed this requires re-approval of an approved supplementary code and, in the case of a designated supplementary code, a re-assessment of whether the code meets the revised conditions.

Secretary Michelle Donelan

Gov NC14

To move the following Clause—

“Revision of a recognised supplementary code

- (1) If an approved supplementary code is revised—
 - (a) the code before and after the revision are treated as the same code for the purposes of this Part, and
 - (b) the code ceases to be an approved supplementary code unless subsection (2) or (4) applies.
- (2) This subsection applies if the supplementary code, in its revised form, has been approved under section (*Approval of a supplementary code*).
- (3) If subsection (2) applies the approved supplementary code, in its revised form, remains an approved supplementary code.
- (4) This subsection applies for so long as—
 - (a) a decision is pending under section (*Approval of a supplementary code*) on an application for approval of the supplementary code in its revised form, and
 - (b) the revisions to the code have not taken effect.
- (5) If subsection (4) applies the supplementary code, in its unrevised form, remains an approved supplementary code.
- (6) The Secretary of State may revise a designated supplementary code only if the Secretary of State is satisfied that the code, in its revised form, meets the conditions set out in the DVS trust framework (so far as relevant).
- (7) If a designated supplementary code is revised, the code before and after the revision are treated as the same code for the purposes of this Part.”

Member's explanatory statement

This amendment sets out the consequences where there are changes to a recognised supplementary code and, in particular, what needs to be done for the code to remain a recognised supplementary code.

Secretary Michelle Donelan

Gov NC15

To move the following Clause—

“Applications for approval and re-approval

- (1) The Secretary of State may determine—
 - (a) the form of an application for approval or re-approval under section (*Approval of a supplementary code*),
 - (b) the information to be contained in or provided with the application,
 - (c) the documents to be provided with the application,
 - (d) the manner in which the application is to be submitted, and
 - (e) who may make the application.
- (2) A determination may make different provision for different purposes.
- (3) The Secretary of State must publish a determination.
- (4) The Secretary of State may revise a determination.
- (5) If the Secretary of State revises a determination the Secretary of State must publish the determination as revised.”

Member's explanatory statement

This amendment enables the Secretary of State to determine the process for making a valid application for approval of a supplementary code.

Secretary Michelle Donelan

Gov NC16

To move the following Clause—

“Fees for approval, re-approval and continued approval

- (1) The Secretary of State may determine that a person who applies for approval or re-approval of a supplementary code under section (*Approval of a supplementary code*) must pay a fee to the Secretary of State of an amount specified in the determination.
- (2) A determination under subsection (1) may specify an amount which exceeds the administrative costs of determining the application for approval or re-approval.
- (3) The Secretary of State may determine that a fee is payable to the Secretary of State, of an amount and at times specified in the determination, in connection with the continued approval of a supplementary code.

- (4) A determination under subsection (3)—
 - (a) may specify an amount which exceeds the administrative costs associated with the continued approval of a supplementary code, and
 - (b) must specify, or describe, who must pay the fee.
- (5) A fee payable under subsection (3) is recoverable summarily (or, in Scotland, recoverable) as a civil debt.
- (6) A determination may make different provision for different purposes.
- (7) The Secretary of State must publish a determination.
- (8) The Secretary of State may revise a determination.
- (9) If the Secretary of State revises a determination the Secretary of State must publish the determination as revised.”

Member's explanatory statement

This amendment enables the Secretary of State to determine that a fee is payable for approval/re-approval/continued approval of a supplementary code and the amount of such a fee.

Secretary Michelle Donelan

Gov NC17

To move the following Clause—

“Request for withdrawal of approval

- (1) The Secretary of State must withdraw approval of a supplementary code if—
 - (a) the Secretary of State receives a notice requesting the withdrawal of approval of the supplementary code, and
 - (b) the notice complies with any requirements imposed by a determination under subsection (3).
- (2) Before the day on which the approval is withdrawn, the Secretary of State must inform the person who gave the notice of when it will be withdrawn.
- (3) The Secretary of State may determine—
 - (a) the form of a notice,
 - (b) the information to be contained in or provided with the notice,
 - (c) the documents to be provided with the notice,
 - (d) the manner in which the notice is to be submitted,
 - (e) who may give the notice.
- (4) A determination may make different provision for different purposes.
- (5) The Secretary of State must publish a determination.
- (6) The Secretary of State may revise a determination.
- (7) If the Secretary of State revises a determination the Secretary of State must publish the determination as revised.”

Member's explanatory statement

This amendment enables a supplementary code to be "de-approved", on request.

Secretary Michelle Donelan

Gov NC18

To move the following Clause—

"Removal of designation

- (1) The Secretary of State may determine to remove the designation of a supplementary code.
- (2) A determination must—
 - (a) be published, and
 - (b) specify when the designation is to be removed, which must be a time after the end of the period of 21 days beginning with the day on which the determination is published."

Member's explanatory statement

This amendment enables the Secretary of State to determine that a designated supplementary code should cease to be designated.

Secretary Michelle Donelan

Gov NC19

To move the following Clause—

"Registration of additional services

- (1) Subsection (2) applies if—
 - (a) a person is registered in the DVS register,
 - (b) the person applies for their entry in the register to be amended to record additional digital verification services that the person provides in accordance with the main code,
 - (c) the person holds a certificate from an accredited conformity assessment body certifying that the person provides the additional services in accordance with the main code,
 - (d) the application complies with any requirements imposed by a determination under section 51, and
 - (e) the person pays any fee required to be paid by a determination under section 52(1).
- (2) The Secretary of State must amend the DVS register to record that the person is also registered in respect of the additional services referred to in subsection (1).
- (3) For the purposes of subsection (1)(c), a certificate is to be ignored if—
 - (a) it has expired in accordance with its terms,
 - (b) it has been withdrawn by the body that issued it, or

- (c) it is required to be ignored by reason of provision included in the DVS trust framework under 49(10).”

Member's explanatory statement

This amendment provides for a person to apply to add services to their entry in the DVS register and requires the Secretary of State to amend the register to record that a person is registered in respect of the additional services.

Secretary Michelle Donelan

Gov NC20

To move the following Clause—

“Supplementary notes

- (1) Subsection (2) applies if—
- (a) a person holds a certificate from an accredited conformity assessment body certifying that digital verification services provided by the person are provided in accordance with a recognised supplementary code,
 - (b) the person applies for a note about one or more of the services to which the certificate relates to be included in the entry relating to that person in the DVS register,
 - (c) the application complies with any requirements imposed by a determination under section 51, and
 - (d) the person pays any fee required to be paid by a determination under section 52(1).
- (2) The Secretary of State must include a note in the entry relating to the person in the DVS register recording that the person provides, in accordance with the recognised supplementary code referred to in subsection (1), the services in respect of which the person made the application referred to in that subsection.
- (3) The Secretary of State may not otherwise include a note described in subsection (2) in the DVS register.
- (4) For the purposes of subsection (1)(a), a certificate is to be ignored if—
- (a) it has expired in accordance with its terms,
 - (b) it has been withdrawn by the body that issued it, or
 - (c) subsection (5) applies.
- (5) This subsection applies if—
- (a) the recognised supplementary code to which the certificate relates has been revised since the certificate was issued,
 - (b) the certificate was issued before the revision to the supplementary code took effect, and
 - (c) the supplementary code (as revised) provides—
 - (i) that certificates issued before the time the revision takes effect are required to be ignored, or
 - (ii) that such certificates are to be ignored from a date, or from the end of a period, specified in the code and that date has passed or that period has elapsed.

- (6) In this Part, a note included in the DVS register in accordance with subsection (2) is referred to as a supplementary note.”

Member's explanatory statement

This amendment provides for a person to apply for a note to be included in the DVS register that they provide digital verification services in accordance with a recognised supplementary code.

Secretary Michelle Donelan

Gov NC21

To move the following Clause—

“Addition of services to supplementary notes

- (1) Subsection (2) applies if—
- (a) a person has a supplementary note included in the DVS register,
 - (b) the person applies for the note to be amended to record additional digital verification services that the person provides in accordance with a recognised supplementary code,
 - (c) the person holds a certificate from an accredited conformity assessment body certifying that the person provides the additional services in accordance with the recognised supplementary code referred to in paragraph (b),
 - (d) the application complies with any requirements imposed by a determination under section 51, and
 - (e) the person pays any fee required to be paid by a determination under section 52(1).
- (2) The Secretary of State must amend the note to record that the person also provides the additional services referred to in subsection (1) in accordance with the recognised supplementary code referred to in that subsection.
- (3) For the purposes of subsection (1)(c), a certificate is to be ignored if—
- (a) it has expired in accordance with its terms,
 - (b) it has been withdrawn by the body that issued it, or
 - (c) subsection (4) applies.
- (4) This subsection applies if—
- (a) the recognised supplementary code to which the certificate relates has been revised since the certificate was issued,
 - (b) the certificate was issued before the revision to the supplementary code took effect, and
 - (c) the supplementary code (as revised) provides—
 - (i) that certificates issued before the time the revision takes effect are required to be ignored, or
 - (ii) that such certificates are to be ignored from a date, or from the end of a period, specified in the code and that date has passed or that period has elapsed.”

Member's explanatory statement

This amendment provides for a person to add services to their supplementary note in the DVS register and requires the Secretary of State to amend the note to record that a person is registered in respect of the additional services.

Secretary Michelle Donelan

Gov NC22

To move the following Clause—

“Duty to remove services from the DVS register

- (1) Where a person is registered in the DVS register in respect of digital verification services, subsection (2) applies if the person—
 - (a) asks for the register to be amended so that the person is no longer registered in respect of one or more of those services,
 - (b) ceases to provide one or more of those services, or
 - (c) no longer holds a certificate from an accredited conformity assessment body certifying that all of those services are provided in accordance with the main code.
- (2) The Secretary of State must amend the register to record that the person is no longer registered in respect of (as the case may be)—
 - (a) the service or services mentioned in a request described in subsection (1)(a),
 - (b) the service or services which the person has ceased to provide, or
 - (c) the service or services for which there is no longer a certificate as described in subsection (1)(c).
- (3) For the purposes of subsection (1)(c), a certificate is to be ignored if—
 - (a) it has expired in accordance with its terms,
 - (b) it has been withdrawn by the body that issued it, or
 - (c) it is required to be ignored by reason of provision included in the DVS trust framework under section 49(10).”

Member's explanatory statement

This amendment places the Secretary of State under a duty to amend the DVS register, in certain circumstances, to record that a person is no longer registered in respect of certain services.

Secretary Michelle Donelan

Gov NC23

To move the following Clause—

“Duty to remove supplementary notes from the DVS register

- (1) The Secretary of State must remove a supplementary note included in the entry in the DVS register relating to a person if—
 - (a) the person asks for the note to be removed,
 - (b) the person ceases to provide all of the digital verification services to which the note relates,

- (c) the person no longer holds a certificate from an accredited conformity assessment body certifying that at least one of those digital verification services is provided in accordance with the supplementary code, or
 - (d) the person continues to hold a certificate described in paragraph (c) but the supplementary code is not a recognised supplementary code.
- (2) For the purposes of subsection (1)(c) and (d), a certificate is to be ignored if—
 - (a) it has expired in accordance with its terms,
 - (b) it has been withdrawn by the body that issued it, or
 - (c) subsection (3) applies.
- (3) This subsection applies if—
 - (a) the supplementary code to which the certificate relates has been revised since the certificate was issued,
 - (b) the certificate was issued before the revision to the supplementary code took effect, and
 - (c) the supplementary code (as revised) provides—
 - (i) that certificates issued before the time the revision takes effect are required to be ignored, or
 - (ii) that such certificates are to be ignored from a date, or from the end of a period, specified in the code and that date has passed or that period has elapsed.”

Member's explanatory statement

This amendment sets out the circumstances in which the Secretary of State must remove a supplementary note from the DVS register.

Secretary Michelle Donelan

Gov NC24

To move the following Clause—

“Duty to remove services from supplementary notes

- (1) Where a person has a supplementary note included in their entry in the DVS register in respect of digital verification services, subsection (2) applies if the person—
 - (a) asks for the register to be amended so that the note no longer records one or more of those services,
 - (b) ceases to provide one or more of the services recorded in the note, or
 - (c) no longer holds a certificate from an accredited conformity assessment body certifying that all of the services included in the note are provided in accordance with a supplementary code.
- (2) The Secretary of State must amend the supplementary note so it no longer records (as the case maA24y be)—
 - (a) the service or services mentioned in a request described in subsection (1)(a),
 - (b) the service or services which the person has ceased to provide, or

- (c) the service or services for which there is no longer a certificate as described in subsection (1)(c).
- (3) For the purposes of subsection (1)(c), a certificate is to be ignored if—
 - (a) it has expired in accordance with its terms,
 - (b) it has been withdrawn by the body that issued it, or
 - (c) subsection (4) applies.
- (4) This subsection applies if—
 - (a) the supplementary code to which the certificate relates has been revised since the certificate was issued,
 - (b) the certificate was issued before the revision to the supplementary code took effect, and
 - (c) the supplementary code (as revised) provides—
 - (i) that certificates issued before the time the revision takes effect are required to be ignored, or
 - (ii) that such certificates are to be ignored from a date, or from the end of a period, specified in the code and that date has passed or that period has elapsed.”

Member's explanatory statement

This amendment places the Secretary of State under a duty to amend a supplementary note on the DVS register relating to a person, in certain circumstances, to remove reference to certain services from the note.

Secretary Michelle Donelan

Gov NC25

To move the following Clause—

“Index of defined terms for Part 2

The Table below lists provisions that define or otherwise explain terms defined for the purposes of this Part of this Act.

Term	Provision
accredited conformity assessment body	section 50(7)
approved supplementary code	section (<i>Approval of a supplementary code</i>)(6)
designated supplementary code	section (<i>Designation of a supplementary code</i>)(3)
digital verification services	section 48(2)
the DVS register	section 50(2)
the DVS trust framework	section 49(2)(a)
the main code	section 49(2)(b)

Term	Provision
recognised supplementary code	section (<i>List of recognised supplementary codes</i>)(2)
supplementary code	section 49(2)(c)
supplementary note	section (Supplementary notes)(6)"

Member's explanatory statement

This amendment provides an index of terms which are defined in Part 2.

Secretary Michelle Donelan

Gov NC26

To move the following Clause—

"Powers relating to verification of identity or status

- (1) In section 15 of the Immigration, Asylum and Nationality Act 2006 (penalty for employing a person subject to immigration control), after subsection (7) insert—
 - "(8) An order under subsection (3) containing provision described in subsection (7)(a), (b) or (c) may, in particular—
 - (a) specify a document generated by a DVS-registered person or a DVS-registered person of a specified description;
 - (b) specify a document which was provided to such a person in order to generate such a document;
 - (c) specify steps involving the use of services provided by such a person.
 - (9) In subsection (8), "DVS-registered person" means a person who is registered in the DVS register maintained under Part 2 of the Data Protection and Digital Information Act 2024 ("the DVS register").
 - (10) An order under subsection (3) which specifies a description of DVS-registered person may do so by, for example, describing a DVS-registered person whose entry in the DVS register includes a note relating to specified services (see section (*Supplementary notes*) of the Data Protection and Digital Information Act 2024)."
- (2) In section 34 of the Immigration Act 2014 (requirements which may be prescribed for the purposes of provisions about occupying premises under a residential tenancy agreement)—
 - (a) in subsection (1)—
 - (i) in paragraph (a), after "occupiers" insert ", a DVS-registered person or a DVS-registered person of a prescribed description",
 - (ii) in paragraph (b), after "occupiers" insert ", a DVS-registered person or a DVS-registered person of a prescribed description",

- (iii) in paragraph (c), at the end insert “, including steps involving the use of services provided by a DVS-registered person or a DVS-registered person of a prescribed description”, and
- (b) after that subsection insert—
 - “(1A) An order prescribing requirements for the purposes of this Chapter which contains provision described in subsection (1)(a) or (b) may, in particular—
 - (a) prescribe a document generated by a DVS-registered person or a DVS-registered person of a prescribed description;
 - (b) prescribe a document which was provided to such a person in order to generate such a document.
 - (1B) In subsections (1) and (1A), “DVS-registered person” means a person who is registered in the DVS register maintained under Part 2 of the Data Protection and Digital Information Act 2024 (“the DVS register”).
 - (1C) An order prescribing requirements for the purposes of this Chapter which prescribes a description of DVS-registered person may do so by, for example, describing a DVS-registered person whose entry in the DVS register includes a note relating to prescribed services (see section (*Supplementary notes*) of the Data Protection and Digital Information Act 2024).”
- (3) In Schedule 6 to the Immigration Act 2016 (illegal working compliance orders etc), after paragraph 5 insert—

“Prescribed checks and documents

 - 5A (1) Regulations under paragraph 5(6)(b) or (c) may, in particular—
 - (a) prescribe checks carried out using services provided by a DVS-registered person or a DVS-registered person of a prescribed description;
 - (b) prescribe documents generated by such a person;
 - (c) prescribe documents which were provided to such a person in order to generate such documents.
 - (2) In sub-paragraph (1), “DVS-registered person” means a person who is registered in the DVS register maintained under Part 2 of the Data Protection and Digital Information Act 2024 (“the DVS register”).
 - (3) Regulations under paragraph 5(6)(b) or (c) which prescribe a description of DVS-registered person may do so by, for example, describing a DVS-registered person whose entry in the DVS register includes a note relating to prescribed services (see section (*Supplementary notes*) of the Data Protection and Digital Information Act 2024).”

Member's explanatory statement

This amendment contains amendments of powers to make subordinate legislation so they can be exercised so as to make provision by reference to persons registered in the DVS register established under Part 2 of the Bill.

Secretary Michelle Donelan

Gov NC27

To move the following Clause—

“Interface bodies

- (1) This section is about the provision that regulations under section 66 or 68 may (among other things) contain about bodies with one or more of the following tasks—
 - (a) establishing a facility or service used, or capable of being used, for providing, publishing or otherwise processing customer data or business data or for taking action described in section 66(3) (an “interface”);
 - (b) setting standards (“interface standards”), or making other arrangements (“interface arrangements”), for use by other persons when establishing, maintaining or managing an interface;
 - (c) maintaining or managing an interface, interface standards or interface arrangements.
- (2) Such bodies are referred to in this Part as “interface bodies”.
- (3) The regulations may—
 - (a) require a data holder, an authorised person or a third party recipient to set up an interface body;
 - (b) make provision about the type of body to be set up.
- (4) In relation to an interface body (whether or not it is required to be set up by regulations under section 66 or 68), the regulations may—
 - (a) make provision about the body’s composition and governance;
 - (b) make provision requiring a data holder, an authorised person or a third party recipient to provide, or arrange for, assistance for the body;
 - (c) impose other requirements relating to the body on a person required to set it up or to provide, or arrange for, assistance for the body;
 - (d) make provision requiring the body to carry on all or part of a task described in subsection (1);
 - (e) make provision requiring the body to do other things in connection with its interface, interface standards or interface arrangements;
 - (f) make provision about how the body carries out its functions (such as, for example, provision about the body’s objectives or matters to be taken into account by the body);
 - (g) confer powers on the body for the purpose of monitoring use of its interface, interface standards or interface arrangements (“monitoring powers”) (and see section 71 for provision about enforcement of requirements imposed in exercise of those powers);

- (h) make provision for the body to arrange for its monitoring powers to be exercised by another person;
 - (i) make provision about the rights of persons affected by the exercise of the body's functions under the regulations, including (among other things)—
 - (i) provision about the review of decisions made in exercise of those functions;
 - (ii) provision about appeals to a court or tribunal;
 - (j) make provision about complaints, including provision requiring the body to implement procedures for the handling of complaints;
 - (k) make provision enabling or requiring the body to publish, or provide to a specified person, specified documents or information relating to its interface, interface standards or interface arrangements;
 - (l) make provision enabling or requiring the body to produce guidance about how it proposes to exercise its functions under the regulations, to publish the guidance and to provide copies to specified persons.
- (5) The monitoring powers that may be conferred on an interface body include power to require the provision of documents or information (but such powers are subject to the restrictions in section 72 as well as any restrictions included in the regulations).
- (6) Examples of facilities or services referred to in subsection (1) include dashboard services, other electronic communications services and application programming interfaces.
- (7) In subsection (4)(b) and (c), the references to assistance include actual or contingent financial assistance (such as, for example, a grant, loan, guarantee or indemnity or buying a company's share capital)."

Member's explanatory statement

This new clause enables regulations under Part 3 to make provision about bodies providing facilities or services used for providing, publishing or processing customer data or business data, or setting standards or making other arrangements in connection with such facilities or services.

Secretary Michelle Donelan

Gov NC28

To move the following Clause—

"The FCA and financial services interfaces

- (1) The Treasury may by regulations make provision enabling or requiring the Financial Conduct Authority ("the FCA") to make rules—
- (a) requiring financial services providers described in the regulations to use a prescribed interface, or prescribed interface standards or interface arrangements, when providing or receiving customer data or business data which is required to be provided by or to the financial services provider by data regulations;
 - (b) requiring persons described in the regulations to use a prescribed interface, or prescribed interface standards or interface arrangements,

when the person, in the course of a business, receives, from a financial services provider, customer data or business data which is required to be provided to the person by data regulations;

- (c) imposing interface-related requirements on a description of person falling within subsection (2),

and such rules are referred to in this Part as “FCA interface rules”.

- (2) The following persons fall within this subsection—
 - (a) an interface body linked to the financial services sector on which requirements are imposed by regulations made in reliance on section (*Interface bodies*);
 - (b) a person required by regulations made in reliance on section (*Interface bodies*) to set up an interface body linked to the financial services sector;
 - (c) a person who uses an interface, interface standards or interface arrangements linked to the financial services sector or who is required to do so by data regulations or rules made by virtue of regulations under subsection (1)(a) or (b).
- (3) For the purposes of this section, requirements are interface-related if they relate to—
 - (a) the composition, governance or activities of an interface body linked to the financial services sector,
 - (b) an interface, interface standards or interface arrangements linked to the financial services sector, or
 - (c) the use of such an interface, such interface standards or such interface arrangements.
- (4) For the purposes of this section—
 - (a) an interface body is linked to the financial services sector to the extent that its interface, interface standards or interface arrangements are linked to the financial service sector;
 - (b) interfaces, interface standards and interface arrangements are linked to the financial services sector to the extent that they are used, or intended to be used, by financial services providers (whether or not they are used, or intended to be used, by other persons).
- (5) The Treasury may by regulations make provision enabling or requiring the FCA to impose requirements on a person to whom FCA interface rules apply (referred to in this Part as “FCA additional requirements”) where the FCA considers it appropriate to impose the requirement—
 - (a) in response to a failure, or likely failure, by the person to comply with an FCA interface rule or FCA additional requirement, or
 - (b) in order to advance a purpose which the FCA is required to advance when exercising functions conferred by regulations under this section (see section (*The FCA and financial services interfaces: supplementary*)(3)(a)).
- (6) Regulations under subsection (5) may, for example, provide for the FCA to impose requirements by giving a notice or direction.

- (7) The restrictions in section 72 apply in connection with FCA interface rules and FCA additional requirements as they apply in connection with regulations under this Part.
- (8) In section 72 as so applied—
 - (a) the references in subsections (1)(b) and (8) to an enforcer include the FCA, and
 - (b) the references in subsections (3) and (4) to data regulations include FCA interface rules and FCA additional requirements.
- (9) In this section—

“financial services provider” means a person providing financial services;

“prescribed” means prescribed in FCA interface rules.”

Member's explanatory statement

This new clause and new clause NC29 enable the Treasury, by regulations, to confer powers on the Financial Conduct Authority to impose requirements (by means of rules or otherwise) on interface bodies used by the financial services sector and on persons participating in, or using facilities and services provided by, such bodies.

Secretary Michelle Donelan

Gov NC29

To move the following Clause—

“The FCA and financial services interfaces: supplementary

- (1) This section is about provision that regulations under section (*The FCA and financial services interfaces*) may or must (among other things) contain.
- (2) The regulations—
 - (a) may enable or require the FCA to impose interface-related requirements that could be imposed by regulations made in reliance on section (*Interface bodies*)(4) or (5), but
 - (b) may not enable or require the FCA to require a person to set up an interface body.
- (3) The regulations must—
 - (a) require the FCA, so far as is reasonably possible, to exercise functions conferred by the regulations in a manner which is compatible with, or which advances, one or more specified purposes;
 - (b) specify one or more matters to which the FCA must have regard when exercising functions conferred by the regulations;
 - (c) if they enable or require the FCA to make rules, make provision about the procedure for making rules, including provision requiring such consultation with persons likely to be affected by the rules or representatives of such persons as the FCA considers appropriate.
- (4) The regulations may—

- (a) require the FCA to carry out an analysis of the costs and benefits that will arise if proposed rules are made or proposed changes are made to rules and make provision about what the analysis must include;
 - (b) require the FCA to publish rules or changes to rules and to provide copies to specified persons;
 - (c) make provision about the effect of rules, including provision about circumstances in which rules are void and circumstances in which a person is not to be taken to have contravened a rule;
 - (d) make provision enabling or requiring the FCA to modify or waive rules as they apply to a particular case;
 - (e) make provision about the procedure for imposing FCA additional requirements;
 - (f) make provision enabling or requiring the FCA to produce guidance about how it proposes to exercise its functions under the regulations, to publish the guidance and to provide copies to specified persons.
- (5) The regulations may enable or require the FCA to impose the following types of requirement on a person as FCA additional requirements—
- (a) a requirement to review the person's conduct;
 - (b) a requirement to take remedial action;
 - (c) a requirement to make redress for loss or damage suffered by others as a result of the person's conduct.
- (6) The regulations may enable or require the FCA to make rules requiring a person falling within section (*The FCA and financial services interfaces*)(2)(b) or (c) to pay fees to an interface body for the purpose of meeting expenses incurred, or to be incurred, by such a body in performing duties, or exercising powers, imposed or conferred by regulations under this Part or by rules made by virtue of regulations under section (*The FCA and financial services interfaces*).
- (7) Regulations made in reliance on subsection (6)—
- (a) may enable rules to provide for the amount of a fee to be an amount which is intended to exceed the cost of the things in respect of which the fee is charged;
 - (b) must require rules to provide for the amount of a fee to be—
 - (i) a prescribed amount or an amount determined in accordance with the rules, or
 - (ii) an amount not exceeding such an amount;
 - (c) may enable or require rules to provide for the amount, or maximum amount, of a fee to increase at specified times and by—
 - (i) a prescribed amount or an amount determined in accordance with the rules, or
 - (ii) an amount not exceeding such an amount;
 - (d) if they enable rules to enable a person to determine an amount, must require rules to require the person to publish information about the amount and how it is determined;
 - (e) may enable or require rules to make provision about—
 - (i) interest on any unpaid amounts;

- (ii) the recovery of unpaid amounts.
- (8) In this section—
 - “interface-related” has the meaning given in section (*The FCA and financial services interfaces*);
 - “prescribed” means prescribed in FCA interface rules.
- (9) The reference in subsection (5)(c) to making redress includes—
 - (a) paying interest, and
 - (b) providing redress in the form of a remedy or relief which could not be awarded in legal proceedings.”

Member's explanatory statement

See the explanatory statement for new clause NC28.

Secretary Michelle Donelan

Gov NC30

To move the following Clause—

“The FCA and financial services interfaces: penalties and levies

- (1) Subsections (2) and (3) are about the provision that regulations made by the Treasury under this Part providing for the FCA to enforce requirements under FCA interface rules may (among other things) contain in relation to financial penalties.
- (2) The regulations may require or enable the FCA—
 - (a) to set the amount or maximum amount of, or of an increase in, a penalty imposed in respect of failure to comply with a requirement imposed by the FCA in exercise of a power conferred by regulations under section (*The FCA and financial services interfaces*) (whether imposed by means of FCA interface rules or an FCA additional requirement), or
 - (b) to set the method for determining such an amount.
- (3) Regulations made in reliance on subsection (2)—
 - (a) must require the FCA to produce and publish a statement of its policy with respect to the amount of the penalties;
 - (b) may require the policy to include specified matters;
 - (c) may make provision about the procedure for producing the statement;
 - (d) may require copies of the statement to be provided to specified persons;
 - (e) may require the FCA to have regard to a statement published in accordance with the regulations.
- (4) The Treasury may by regulations—
 - (a) impose, or provide for the FCA to impose, a levy on data holders, authorised persons or third party recipients for the purpose of meeting all or part of the expenses incurred, or to be incurred, during a period by the FCA, or by a person acting on the FCA's behalf, in performing duties, or exercising powers, imposed or conferred on the FCA by

- regulations under section (*The FCA and financial services interfaces*), and
- (b) make provision about how funds raised by means of the levy must or may be used.
- (5) Regulations under subsection (4) may only provide for a levy in respect of expenses of the FCA to be imposed on persons that appear to the Treasury to be capable of being directly affected by the exercise of some or all of the functions conferred on the FCA by regulations under section (*The FCA and financial services interfaces*).
- (6) Section 75(3) and (4) apply in relation to regulations under subsection (4) of this section as they apply in relation to regulations under section 75(1)."

Member's explanatory statement

This new clause enables the Treasury, by regulations, to confer power on the Financial Conduct Authority to set the amount of certain penalties. It also enables the Treasury to impose a levy in respect of expenses incurred by that Authority.

Secretary Michelle Donelan

Gov NC31

To move the following Clause—

"Liability in damages

- (1) The Secretary of State or the Treasury may by regulations provide that a person listed in subsection (2) is not liable in damages for anything done or omitted to be done in the exercise of functions conferred by regulations under this Part.
- (2) Those persons are—
 - (a) a public authority;
 - (b) a member, officer or member of staff of a public authority;
 - (c) a person who could be held vicariously liable for things done or omitted by a public authority.
- (3) Regulations under this section may not—
 - (a) make provision removing liability for an act or omission which is shown to have been in bad faith, or
 - (b) make provision so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998."

Member's explanatory statement

This new clause enables regulations under Part 3 to provide that certain persons are not liable in damages when exercising functions under such regulations.

Secretary Michelle Donelan

Gov NC32

To move the following Clause—

“Other data provision

- (1) This section is about cases in which subordinate legislation other than regulations under this Part contains provision described in section 66(1) to (3) or 68(1) to (2A) (“other data provision”).
- (2) The regulation-making powers under this Part may be exercised so as to make, in connection with the other data provision, any provision that they could be exercised to make as part of, or in connection with, provision made under section 66(1) to (3) or 68(1) to (2A) that is equivalent to the other data provision.
- (3) In this Part, references to “data regulations” include regulations made in reliance on subsection (2) to the extent that they make provision described in sections 66 to 70 or (*Interface bodies*).
- (4) In this section, “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (see section 21 of that Act).”

Member's explanatory statement

This new clause enables the regulation-making powers under Part 3 to be used to supplement existing subordinate legislation which requires customer data or business data to be provided to customers and others.

Secretary Michelle Donelan

Gov NC33

To move the following Clause—

“Duty to notify the Commissioner of personal data breach: time periods

- (1) In regulation 5A of the PEC Regulations (personal data breach)—
 - (a) in paragraph (2), after “delay” insert “and, where feasible, not later than 72 hours after having become aware of it”, and
 - (b) after paragraph (3) insert—
 - “(3A) Where notification under paragraph (2) is not made within 72 hours, it must be accompanied by reasons for the delay.”
- (2) In Article 2 of Commission Regulation (EU) No 611/2013 of 24 June 2013 on the measures applicable to the notification of personal data breaches under Directive 2002/58/EC of the European Parliament and of the Council on privacy and electronic communications (notification to the Information Commissioner)—
 - (a) in paragraph 2—
 - (i) in the first subparagraph, for the words from “no” to “feasible” substitute “without undue delay and, where feasible, not later than 72 hours after having becoming aware of it”, and
 - (ii) in the second subparagraph, after “shall” insert “, subject to paragraph 3,”, and

(b) for paragraph 3 substitute—

“3. To the extent that the information set out in Annex 1 is not available to be included in the notification, it may be provided in phases without undue further delay.””

Member's explanatory statement

This adjusts the period within which the Information Commissioner must be notified of a personal data breach. It also inserts a duty (into the PEC Regulations) to give reasons for not notifying within 72 hours and adjusts the duty (in Commission Regulation (EU) No 611/2013) to provide accompanying information.

Secretary Michelle Donelan

Gov NC34

To move the following Clause—

“Power to require information for social security purposes

In Schedule (*Power to require information for social security purposes*)—

- (a) Part 1 amends the Social Security Administration Act 1992 to make provision about a power for the Secretary of State to obtain information for social security purposes;
- (b) Part 2 amends the Social Security Administration (Northern Ireland) Act 1992 to make provision about a power for the Department for Communities to obtain information for such purposes;
- (c) Part 3 makes related amendments of the Proceeds of Crime Act 2002.”

Member's explanatory statement

This new clause introduces a new Schedule NS1 which amends social security legislation to make provision about a new power for the Secretary of State or, in Northern Ireland, the Department for Communities, to obtain information for social security purposes.

Secretary Michelle Donelan

Gov NC35

To move the following Clause—

“Retention of information by providers of internet services in connection with death of child

- (1) The Online Safety Act 2023 is amended as follows.
- (2) In section 100 (power to require information)—
 - (a) omit subsection (7);
 - (b) after subsection (8) insert—
 - “(8A) The power to give a notice conferred by subsection (1) does not include power to require processing of personal data that would contravene the data protection legislation (but in determining whether processing of personal data would do so, the duty imposed by the notice is to be taken into account).”

- (3) In section 101 (information in connection with investigation into death of child)—
- (a) before subsection (1) insert—
- “(A1) Subsection (D1) applies if a senior coroner (in England and Wales), a procurator fiscal (in Scotland) or a coroner (in Northern Ireland) (“the investigating authority”)—
- (a) notifies OFCOM that—
- (i) they are conducting an investigation, or are due to conduct an investigation, in connection with the death of a child, and
- (ii) they suspect that the child may have taken their own life, and
- (b) provides OFCOM with the details in subsection (B1).
- (B1) The details are—
- (a) the name of the child who has died,
- (b) the child’s date of birth,
- (c) any email addresses used by the child (so far as the investigating authority knows), and
- (d) if any regulated service has been brought to the attention of the investigating authority as being of interest in connection with the child’s death, the name of the service.
- (C1) Where this subsection applies, OFCOM—
- (a) must give a notice to the provider of a service within subsection (E1) requiring the provider to ensure the retention of information relating to the use of the service by the child who has died, and
- (b) may give a notice to any other relevant person requiring the person to ensure the retention of information relating to the use of a service within subsection (E1) by that child.
- (D1) The references in subsection (C1) to ensuring the retention of information relating to the child’s use of a service include taking all reasonable steps, without delay, to prevent the deletion of such information by the routine operation of systems or processes.
- (E1) A service is within this subsection if it is—
- (a) a regulated service of a kind described in regulations made by the Secretary of State, or
- (b) a regulated service notified to OFCOM by the investigating authority as described in subsection (B1)(d).
- (F1) A notice under subsection (C1) may require information described in that subsection to be retained only if it is information—
- (a) of a kind which OFCOM have power to require under a notice under subsection (1) (see, in particular, subsection (2)(a) to (d)), or

- (b) which a person might need to retain to enable the person to provide information in response to a notice under subsection (1) (if such a notice were given).
- (G1) OFCOM must share with the investigating authority any information they receive in response to requirements mentioned in section 102(5A)(d) that are included in a notice under subsection (C1).”;
- (b) in subsection (3), for “power conferred by subsection (1) includes” substitute “powers conferred by this section include”;
- (c) after subsection (5) insert—
 - “(5A) The powers to give a notice conferred by this section do not include power to require processing of personal data that would contravene the data protection legislation (but in determining whether processing of personal data would do so, the duty imposed by the notice is to be taken into account).”
- (4) In section 102 (information notices)—
 - (a) in subsection (1), for “101(1)” substitute “101(C1) or (1)”;
 - (b) in subsection (3)—
 - (i) after “information notice” insert “under section 100(1) or 101(1)”,
 - (ii) omit “and” at the end of paragraph (c), and
 - (iii) after paragraph (c) insert—
 - “(ca) specify when the information must be provided (which may be on or by a specified date, within a specified period, or at specified intervals), and”;
 - (c) omit subsection (4);
 - (d) after subsection (5) insert—
 - “(5A) An information notice under section 101(C1) must—
 - (a) specify or describe the information to be retained,
 - (b) specify why OFCOM require the information to be retained,
 - (c) require the information to be retained for the period of one year beginning with the date of the notice,
 - (d) require the person to whom the notice is given—
 - (i) if the child to whom the notice relates used the service in question, to notify OFCOM by a specified date of steps taken to ensure the retention of information;
 - (ii) if the child did not use the service, or the person does not hold any information of the kind required, to notify OFCOM of that fact by a specified date, and
 - (e) contain information about the consequences of not complying with the notice.

- (5B) If OFCOM give an information notice to a person under section 101(C1), they may, in response to information received from the investigating authority, extend the period for which the person is required to retain information by a maximum period of six months.
- (5C) The power conferred by subsection (5B) is exercisable—
 - (a) by giving the person a notice varying the notice under section 101(C1) and stating the further period for which information must be retained and the reason for the extension;
 - (b) any number of times.”;
- (e) after subsection (9) insert—
 - “(9A) OFCOM must cancel an information notice under section 101(C1) by notice to the person to whom it was given if advised by the investigating authority that the information in question no longer needs to be retained.”;
- (f) in subsection (10), after the definition of “information” insert—
 - ““the investigating authority” has the same meaning as in section 101;”.
- (5) In section 109 (offences in connection with information notices)—
 - (a) in subsection (2)(b), for “all reasonable steps” substitute “all of the steps that it was reasonable, and reasonably practicable, to take”;
 - (b) after subsection (6) insert—
 - “(6A) A person who is given an information notice under section 101(C1) commits an offence if—
 - (a) the person deletes or alters, or causes or permits the deletion or alteration of, any information required by the notice to be retained, and
 - (b) the person’s intention was to prevent the information being available, or (as the case may be) to prevent it being available in unaltered form, for the purposes of any official investigation into the death of the child to whom the notice relates.
 - (6B) For the purposes of subsection (6A) information has been deleted if it is irrecoverable (however that occurred).”
- (6) In section 110 (senior managers’ liability: information offences)—
 - (a) after subsection (6) insert—
 - “(6A) An individual named as a senior manager of an entity commits an offence if—
 - (a) the entity commits an offence under section 109(6A) (deletion etc of information), and
 - (b) the individual has failed to take all reasonable steps to prevent that offence being committed.”;
 - (b) in subsection (7), for “or (6)” substitute “, (6) or (6A)”.

- (7) In section 113 (penalties for information offences), in subsection (2)—
- (a) for “(4) or (5)” substitute “(4), (5) or (6A)”;
 - (b) for “(5) or (6)” substitute “(5), (6) or (6A)”.
- (8) In section 114 (co-operation and disclosure of information: overseas regulators), in subsection (7), omit the definition of “the data protection legislation”.
- (9) In section 225 (Parliamentary procedure for regulations), in subsection (10), after paragraph (c) insert—
- “(ca) regulations under section 101(E1)(a),”.
- (10) In section 236(1) (interpretation)—
- (a) after the definition of “country” insert—

““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act);”;
 - (b) in the definition of “information notice”, for “101(1)” substitute “101(C1) or (1)”.
- (11) In section 237 (index of defined terms), after the entry for “CSEA content” insert—
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| “the data protection legislation | section 236”. |
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Member's explanatory statement

This new clause amends the Online Safety Act 2023 to enable OFCOM to give internet service providers a notice requiring them to retain information in connection with an investigation by a coroner (or, in Scotland, procurator fiscal) into the death of a child suspected to have taken their own life. The new clause also creates related offences.

Secretary Michelle Donelan

Gov NC36

To move the following Clause—

“Retention of biometric data and recordable offences

- (1) Part 1 of the Counter-Terrorism Act 2008 (powers to gather and share information) is amended in accordance with subsections (2) to (10).
- (2) In section 18A(3) (retention of material: general), after “recordable offence” insert “or recordable-equivalent offence”.
- (3) Section 18E (supplementary provision) is amended in accordance with subsections (4) to (10).
- (4) In subsection (1), after the definition of “recordable offence” insert—

““recordable-equivalent offence” means an offence under the law of a country or territory outside England and Wales and Northern Ireland where the act constituting the offence would constitute a recordable offence if done in England and Wales or Northern Ireland (whether or

not the act constituted such an offence when the person was convicted);”.

- (5) In subsection (3), in the words before paragraph (a), after “offence” insert “in England and Wales or Northern Ireland”.
- (6) After subsection (5) insert—
 - “(5A) For the purposes of section 18A, a person is to be treated as having been convicted of an offence in a country or territory outside England and Wales and Northern Ireland if, in respect of such an offence, a court exercising jurisdiction under the law of that country or territory has made a finding equivalent to—
 - (a) a finding that the person is not guilty by reason of insanity, or
 - (b) a finding that the person is under a disability and did the act charged against the person in respect of the offence.”
- (7) In subsection (6)(a)—
 - (a) after “convicted” insert “—
 - (i) “”, and
 - (b) after “offence,” insert “or
 - (ii) in a country or territory outside England and Wales and Northern Ireland, of a recordable-equivalent offence,”.
- (8) In subsection (6)(b)—
 - (a) omit “of a recordable offence”, and
 - (b) for “a recordable offence, other than a qualifying offence” substitute “an offence, other than a qualifying offence or qualifying-equivalent offence”.
- (9) In subsection (7), for “subsection (6)” substitute “this section”.
- (10) After subsection (7) insert—
 - “(7A) In subsection (6), “qualifying-equivalent offence” means an offence under the law of a country or territory outside England and Wales and Northern Ireland where the act constituting the offence would constitute a qualifying offence if done in England and Wales or Northern Ireland (whether or not the act constituted such an offence when the person was convicted).”
- (11) The amendments made by this section apply only in connection with the retention of section 18 material that is or was obtained or acquired by a law enforcement authority—
 - (a) on or after the commencement day, or
 - (b) in the period of 3 years ending immediately before the commencement day.
- (12) Subsection (13) of this section applies where—

- (a) at the beginning of the commencement day, a law enforcement authority has section 18 material which it obtained or acquired in the period of 3 years ending immediately before the commencement day,
 - (b) at a time before the commencement day (a “pre-commencement time”), the law enforcement authority was required by section 18(4) of the Counter-Terrorism Act 2008 to destroy the material, and
 - (c) at the pre-commencement time, the law enforcement authority could have retained the material under section 18A of the Counter-Terrorism Act 2008, as it has effect taking account of the amendments made by subsections (2) to (10) of this section, if those amendments had been in force.
- (13) Where this subsection applies—
- (a) the law enforcement authority is to be treated as not having been required to destroy the material at the pre-commencement time, but
 - (b) the material may not be used in evidence against the person to whom the material relates—
 - (i) in criminal proceedings in England and Wales, Northern Ireland or Scotland in relation to an offence where those proceedings, or other criminal proceedings in relation to the person and the offence, were instituted before the commencement day, or
 - (ii) in criminal proceedings in any other country or territory.
- (14) In this section—
- “the commencement day” means the day on which this Act is passed;
 - “law enforcement authority” has the meaning given by section 18E(1) of the Counter-Terrorism Act 2008;
 - “section 18 material” has the meaning given by section 18(2) of that Act.
- (15) For the purposes of this section, proceedings in relation to an offence are instituted—
- (a) in England and Wales, when they are instituted for the purposes of Part 1 of the Prosecution of Offences Act 1985 (see section 15(2) of that Act);
 - (b) in Northern Ireland, when they are instituted for the purposes of Part 2 of the Justice (Northern Ireland) Act 2002 (see section 44(1) and (2) of that Act);
 - (c) in Scotland, when they are instituted for the purposes of Part 3 of the Proceeds of Crime Act 2002 (see section 151(1) and (2) of that Act).”

Member's explanatory statement

This new clause enables a law enforcement authority to retain fingerprints and DNA profiles where a person has been convicted of an offence equivalent to a recordable offence in a jurisdiction outside England and Wales and Northern Ireland.

Secretary Michelle Donelan

Gov NC37

To move the following Clause—

“Retention of pseudonymised biometric data

- (1) Part 1 of the Counter-Terrorism Act 2008 (powers to gather and share information) is amended in accordance with subsections (2) to (6).
- (2) Section 18A (retention of material: general) is amended in accordance with subsections (3) to (5).
- (3) In subsection (1), for “subsection (5)” substitute “subsections (4) to (9)”.
- (4) In subsection (4)(a), after “relates” insert “(a “pseudonymised form”)”.
- (5) After subsection (6) insert—
 - “(7) Section 18 material which is not a DNA sample may be retained indefinitely by a law enforcement authority if—
 - (a) the authority obtains or acquires the material directly or indirectly from an overseas law enforcement authority,
 - (b) the authority obtains or acquires the material in a form which includes information which identifies the person to whom the material relates,
 - (c) as soon as reasonably practicable after obtaining or acquiring the material, the authority takes the steps necessary for it to hold the material in a pseudonymised form, and
 - (d) having taken those steps, the law enforcement authority continues to hold the material in a pseudonymised form.
 - (8) In a case where section 18 material is being retained by a law enforcement authority under subsection (7), if—
 - (a) the law enforcement authority ceases to hold the material in a pseudonymised form, and
 - (b) the material relates to a person who has no previous convictions or only one exempt conviction,the material may be retained by the law enforcement authority until the end of the retention period specified in subsection (9).
 - (9) The retention period is the period of 3 years beginning with the date on which the law enforcement authority first ceases to hold the material in a pseudonymised form.”
- (6) In section 18E(1) (supplementary provision)—
 - (a) in the definition of “law enforcement authority”, for paragraph (d) substitute—
 - “(d) an overseas law enforcement authority;”, and

- (b) after that definition insert—
 - ““overseas law enforcement authority” means a person formed or existing under the law of a country or territory outside the United Kingdom so far as exercising functions which—
 - (a) correspond to those of a police force, or
 - (b) otherwise involve the investigation or prosecution of offences;”.
- (7) The amendments made by this section apply only in connection with the retention of section 18 material that is or was obtained or acquired by a law enforcement authority—
 - (a) on or after the commencement day, or
 - (b) in the period of 3 years ending immediately before the commencement day.
- (8) Subsections (9) to (12) of this section apply where, at the beginning of the commencement day, a law enforcement authority has section 18 material which it obtained or acquired in the period of 3 years ending immediately before the commencement day.
- (9) Where the law enforcement authority holds the material in a pseudonymised form at the beginning of the commencement day, the authority is to be treated for the purposes of section 18A(7)(c) and (d) of the Counter-Terrorism Act 2008 as having—
 - (a) taken the steps necessary for it to hold the material in a pseudonymised form as soon as reasonably practicable after obtaining or acquiring the material, and
 - (b) continued to hold the material in a pseudonymised form until the commencement day.
- (10) Where the law enforcement authority does not hold the material in a pseudonymised form at the beginning of the commencement day, the authority is to be treated for the purposes of section 18A(7)(c) of the Counter-Terrorism Act 2008 as taking the steps necessary for it to hold the material in a pseudonymised form as soon as reasonably practicable after obtaining or acquiring the material if it takes those steps on, or as soon as reasonably practicable after, the commencement day.
- (11) Subsection (12) of this section applies where, at a time before the commencement day (a “pre-commencement time”), the law enforcement authority was required by section 18(4) of the Counter-Terrorism Act 2008 to destroy the material but—
 - (a) at the pre-commencement time, the law enforcement authority could have retained the material under section 18A(7) to (9) of the Counter-Terrorism Act 2008 (as inserted by this section) if those provisions had been in force, or
 - (b) on or after the commencement day, the law enforcement authority may retain the material under those provisions by virtue of subsection (9) or (10) of this section.
- (12) Where this subsection applies—

- (a) the law enforcement authority is to be treated as not having been required to destroy the material at the pre-commencement time, but
 - (b) the material may not be used in evidence against the person to whom the material relates—
 - (i) in criminal proceedings in England and Wales, Northern Ireland or Scotland in relation to an offence where those proceedings, or other criminal proceedings in relation to the person and the offence, were instituted before the commencement day, or
 - (ii) in criminal proceedings in any other country or territory.
- (13) In this section—
- “the commencement day”, “law enforcement authority” and “section 18 material” have the meaning given in section (*Retention of biometric data and recordable offences*)(14);
 - “instituted”, in relation to proceedings, has the meaning given in section (*Retention of biometric data and recordable offences*)(15);
 - “in a pseudonymised form” has the meaning given by section 18A(4) and (10) of the Counter-Terrorism Act 2008 (as amended or inserted by this section).”

Member's explanatory statement

This new clause enables a law enforcement authority to retain fingerprints and DNA profiles where, as soon as reasonably practicable after acquiring or obtaining them, the authority takes the steps necessary for it to hold the material in a form which does not include information which identifies the person to whom the material relates.

Secretary Michelle Donelan

Gov NC38

To move the following Clause—

“Retention of biometric data from INTERPOL

- (1) Part 1 of the Counter-Terrorism Act 2008 (powers to gather and share information) is amended in accordance with subsections (2) to (4).
- (2) In section 18(4) (destruction of national security material not subject to existing statutory restrictions), after “18A” insert “, 18AA”.
- (3) After section 18A insert—

“18AA Retention of material from INTERPOL

- (1) This section applies to section 18 material which is not a DNA sample where the law enforcement authority obtained or acquired the material as part of a request for assistance, or a notification of a threat, sent to the United Kingdom via INTERPOL’s systems.
- (2) The law enforcement authority may retain the material until the National Central Bureau informs the authority that the request or notification has been cancelled or withdrawn.

- (3) If the law enforcement authority is the National Central Bureau, it may retain the material until it becomes aware that the request or notification has been cancelled or withdrawn.
- (4) In this section—
 - “INTERPOL” means the organisation called the International Criminal Police Organization - INTERPOL;
 - “the National Central Bureau” means the body appointed for the time being in accordance with INTERPOL’s constitution to serve as the United Kingdom’s National Central Bureau.
- (5) The reference in subsection (1) to material obtained or acquired as part of a request or notification includes material obtained or acquired as part of a communication, sent to the United Kingdom via INTERPOL’s systems, correcting, updating or otherwise supplementing the request or notification.

18AB Retention of material from INTERPOL: supplementary

- (1) The Secretary of State may by regulations amend section 18AA to make such changes as the Secretary of State considers appropriate in consequence of—
 - (a) changes to the name of the organisation which, when section 18AA was enacted, was called the International Criminal Police Organization - INTERPOL (“the organisation”),
 - (b) changes to arrangements made by the organisation which involve fingerprints or DNA profiles being provided to members of the organisation (whether changes to existing arrangements or changes putting in place new arrangements), or
 - (c) changes to the organisation’s arrangements for liaison between the organisation and its members or between its members.
- (2) Regulations under this section are subject to affirmative resolution procedure.”
- (4) In section 18BA(5)(a) (retention of further fingerprints), after “18A” insert “, 18AA”.
- (5) Section 18AA of the Counter-Terrorism Act 2008 applies in relation to section 18 material obtained or acquired by a law enforcement authority before the commencement day (as well as material obtained or acquired on or after that day), except where the law enforcement authority was informed, or became aware, as described in subsection (2) or (3) of that section before the commencement day.
- (6) Subsection (7) of this section applies where—
 - (a) at the beginning of the commencement day, a law enforcement authority has section 18 material,
 - (b) at a time before the commencement day (a “pre-commencement time”), the law enforcement authority was required by section 18(4) of the Counter-Terrorism Act 2008 to destroy the material, but

- (c) at the pre-commencement time, the law enforcement authority could have retained the material under section 18AA of that Act (as inserted by this section) if it had been in force.
- (7) Where this subsection applies—
 - (a) the law enforcement authority is to be treated as not having been required to destroy the material at the pre-commencement time, but
 - (b) the material may not be used in evidence against the person to whom the material relates—
 - (i) in criminal proceedings in England and Wales, Northern Ireland or Scotland in relation to an offence where those proceedings, or other criminal proceedings in relation to the person and the offence, were instituted before the commencement day, or
 - (ii) in criminal proceedings in any other country or territory.
- (8) In this section—
 - “the commencement day”, “law enforcement authority” and “section 18 material” have the meaning given in section (*Retention of biometric data and recordable offences*)(14);
 - “instituted”, in relation to proceedings, has the meaning given in section (*Retention of biometric data and recordable offences*)(15).”

Member's explanatory statement

This new clause enables fingerprints and DNA profiles obtained as part of a request for assistance, or notification of a threat, from INTERPOL and held for national security purposes by a law enforcement authority to be retained until the authority is informed that the request or notification has been withdrawn or cancelled.

Secretary Michelle Donelan

Gov NC39

To move the following Clause—

“National Underground Asset Register

- (1) After section 106 of the New Roads and Street Works Act 1991 insert—

“PART 3A

NATIONAL UNDERGROUND ASSET REGISTER: ENGLAND AND WALES

The register

106A National Underground Asset Register

- (1) The Secretary of State must keep a register of information relating to apparatus in streets in England and Wales.
- (2) The register is to be known as the National Underground Asset Register (and is referred to in this Act as “NUAR”).
- (3) NUAR must be kept in such form and manner as may be prescribed.

- (4) The Secretary of State must make arrangements so as to enable any person who is required, by a provision of Part 3, to enter information into NUAR to have access to NUAR for that purpose.
- (5) Regulations under subsection (3) are subject to the negative procedure.

106B Access to information kept in NUAR

- (1) The Secretary of State may by regulations make provision in connection with making information kept in NUAR available—
 - (a) under a licence, or
 - (b) without a licence.
- (2) The regulations may (among other things)—
 - (a) make provision about which information, or descriptions of information, may be made available;
 - (b) make provision about the descriptions of person to whom information may be made available;
 - (c) make provision for information to be made available subject to exceptions;
 - (d) make provision requiring or authorising the Secretary of State to adapt, modify or obscure information before making it available;
 - (e) make provision authorising all information kept in NUAR to be made available to prescribed descriptions of person under prescribed conditions;
 - (f) make provision about the purposes for which information may be made available;
 - (g) make provision about the form and manner in which information may be made available.
- (3) The regulations may make provision about licences under which information kept in NUAR is made available, including—
 - (a) provision about the form of a licence;
 - (b) provision about the terms and conditions of a licence;
 - (c) provision for information to be made available under a licence for free or for a fee;
 - (d) provision about the amount of the fees, including provision for the amount of a fee to be an amount which is intended to exceed the cost of the things in respect of which the fee is charged;
 - (e) provision about how funds raised by means of fees must or may be used, including provision for funds to be paid to persons who are required, by a provision of Part 3, to enter information into NUAR.
- (4) Except as otherwise prescribed and subject to section 106G, processing of information by the Secretary of State in exercise of functions conferred by or under section 106A or this section does not breach—
 - (a) any obligation of confidence owed by the Secretary of State, or

- (b) any other restriction on the processing of information (however imposed).
- (5) Regulations under this section are subject to the affirmative procedure.

Requirements for undertakers to pay fees and provide information

106C Fees payable by undertakers in relation to NUAR

- (1) The Secretary of State may by regulations make provision requiring undertakers having apparatus in a street to pay fees to the Secretary of State for or in connection with the exercise by the Secretary of State of any function conferred by or under this Part.
- (2) The regulations may—
- (a) specify the amounts of the fees, or the maximum amounts of the fees, or
 - (b) provide for the amounts of the fees, or the maximum amounts of the fees, to be determined in accordance with the regulations.
- (3) In making the regulations the Secretary of State must seek to secure that, so far as possible and taking one year with another, the income from fees matches the expenses incurred by the Secretary of State in, or in connection with, exercising functions conferred by or under this Part (including expenses not directly connected with the keeping of NUAR).
- (4) Except where the regulations specify the amounts of the fees—
- (a) the amounts of the fees must be specified by the Secretary of State in a statement, and
 - (b) the Secretary of State must—
 - (i) publish the statement, and
 - (ii) lay it before Parliament.
- (5) Regulations under subsection (1) may make provision about—
- (a) when a fee is to be paid;
 - (b) the manner in which a fee is to be paid;
 - (c) the payment of discounted fees;
 - (d) exceptions to requirements to pay fees;
 - (e) the refund of all or part of a fee which has been paid.
- (6) Before making regulations under subsection (1) the Secretary of State must consult—
- (a) such representatives of persons likely to be affected by the regulations as the Secretary of State considers appropriate, and
 - (b) such other persons as the Secretary of State considers appropriate.
- (7) Subject to the following provisions of this section regulations under subsection (1) are subject to the affirmative procedure.

- (8) Regulations under subsection (1) that only make provision of a kind mentioned in subsection (2) are subject to the negative procedure.
- (9) But the first regulations under subsection (1) that make provision of a kind mentioned in subsection (2) are subject to the affirmative procedure.

106D Providing information for purposes of regulations under section 106C

- (1) The Secretary of State may by regulations make provision requiring undertakers having apparatus in a street to provide information to the Secretary of State for either or both of the following purposes—
 - (a) assisting the Secretary of State in determining the provision that it is appropriate for regulations under section 106C(1) or a statement under section 106C(4) to make;
 - (b) assisting the Secretary of State in determining whether it is appropriate to make changes to such provision.
- (2) The Secretary of State may by regulations make provision requiring undertakers having apparatus in a street to provide information to the Secretary of State for either or both of the following purposes—
 - (a) ascertaining whether a fee is payable by a person under regulations under section 106C(1);
 - (b) working out the amount of a fee payable by a person.
- (3) Regulations under subsection (1) or (2) may require an undertaker to notify the Secretary of State of any changes to information previously provided under the regulations.
- (4) Regulations under subsection (1) or (2) may make provision about—
 - (a) when information is to be provided (which may be at prescribed intervals);
 - (b) the form and manner in which information is to be provided;
 - (c) exceptions to requirements to provide information.
- (5) Regulations under subsection (1) or (2) are subject to the negative procedure.

Monetary penalties

106E Monetary penalties

Schedule 5A makes provision about the imposition of penalties in connection with requirements imposed by regulations under sections 106C(1) and 106D(1) and (2).

*Exercise of functions by third party***106F Arrangements for third party to exercise functions**

- (1) The Secretary of State may make arrangements for a prescribed person to exercise a relevant function of the Secretary of State.
- (2) More than one person may be prescribed.
- (3) Arrangements under this section may—
 - (a) provide for the Secretary of State to make payments to the person, and
 - (b) make provision as to the circumstances in which any such payments are to be repaid to the Secretary of State.
- (4) In the case of the exercise of a function by a person authorised by arrangements under this section to exercise that function, any reference in this Part or in regulations under this Part to the Secretary of State in connection with that function is to be read as a reference to that person.
- (5) Arrangements under this section do not prevent the Secretary of State from exercising a function to which the arrangements relate.
- (6) Except as otherwise prescribed and subject to section 106G, the disclosure of information between the Secretary of State and a person in connection with the person's entering into arrangements under this section or exercise of functions to which such arrangements relate does not breach—
 - (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (7) Regulations under this section are subject to the affirmative procedure.
- (8) In this section "relevant function" means any function of the Secretary of State conferred by or under this Part (including the function of charging or recovering fees under section 106C) other than—
 - (a) a power to make regulations, or
 - (b) a function under section 106C(4) (specifying of fees etc).

*Data protection***106G Data protection**

- (1) A duty or power to process information that is imposed or conferred by or under this Part does not operate to require or authorise the processing of personal data that would contravene the data protection legislation (but in determining whether processing of personal data would do so, that duty or power is to be taken into account).
- (2) In this section—

“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act);

“personal data” has the same meaning as in that Act (see section 3(2) of that Act).

Supplementary provisions

106H Regulations under this Part

- (1) In this Part “prescribed” means prescribed by regulations made by the Secretary of State.
- (2) Regulations under this Part may make—
 - (a) different provision for different purposes;
 - (b) supplementary and incidental provision.
- (3) Regulations under this Part are to be made by statutory instrument.
- (4) Before making regulations under this Part the Secretary of State must consult the Welsh Ministers.
- (5) Where regulations under this Part are subject to “the affirmative procedure” the regulations may not be made unless a draft of the statutory instrument containing them has been laid before and approved by a resolution of each House of Parliament.
- (6) Where regulations under this Part are subject to “the negative procedure” the statutory instrument containing the regulations is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Any provision that may be made in regulations under this Part subject to the negative procedure may be made in regulations subject to the affirmative procedure.

106I Interpretation

- (1) In this Part the following terms have the same meaning as in Part 3—
 - “apparatus” (see sections 89(3) and 105(1));
 - “in” (in a context referring to apparatus in a street) (see section 105(1));
 - “street” (see section 48(1) and (2));
 - “undertaker” (in relation to apparatus or in a context referring to having apparatus in a street) (see sections 48(5) and 89(4)).
 - (2) In this Part “processing” has the same meaning as in the Data Protection Act 2018 (see section 3(4) of that Act) and “process” is to be read accordingly.”
- (2) In section 167 of the New Roads and Street Works Act 1991 (Crown application)—

- (a) after subsection (4) insert—
 - “(4A) The provisions of Part 3A of this Act (National Underground Asset Register: England and Wales) bind the Crown.”;
 - (b) in subsection (5), for “(4)” substitute “(4) or (4A)”.
- (3) Schedule (*National Underground Asset Register: monetary penalties*) to this Act inserts Schedule 5A into the New Roads and Street Works Act 1991 (monetary penalties).”

Member's explanatory statement

This amendment inserts Part 3A into the New Roads and Street Works Act 1991 which requires, and makes provision in connection with, the keeping of a register of information relating to apparatus in streets (to be called the National Underground Asset Register).

Secretary Michelle Donelan

Gov NC40

☆ To move the following Clause—

“Information in relation to apparatus

- (1) The New Roads and Street Works Act 1991 is amended in accordance with subsections (2) to (6).
- (2) For the italic heading before section 79 (records of location of apparatus) substitute “Duties in relation to recording and sharing of information about apparatus”.
- (3) In section 79—
 - (a) for the heading substitute “Information in relation to apparatus”;
 - (b) in subsection (1), for paragraph (c) substitute—
 - “(c) being informed of its location under section 80(2),”;
 - (c) after subsection (1A) (as inserted by section 46(2) of the Traffic Management Act 2004) insert—
 - “(1B) An undertaker must, except in such cases as may be prescribed, record in relation to every item of apparatus belonging to the undertaker such other information as may be prescribed as soon as reasonably practicable after—
 - (a) placing the item in the street or altering its position,
 - (b) inspecting, maintaining, adjusting, repairing, altering or renewing the item,
 - (c) locating the item in the street in the course of executing any other works, or
 - (d) receiving any such information in relation to the item under section 80(2).”;
 - (d) omit subsection (3);
 - (e) in subsection (3A) (as inserted by section 46(4) of the Traffic Management Act 2004)—
 - (i) for “to (3)” substitute “and (2A)”;

- (ii) for “subsection (1)” substitute “this section”;
 - (f) after subsection (3A) insert—
 - “(3B) Before the end of the initial upload period an undertaker must enter into NUAR—
 - (a) all information that is included in the undertaker’s records under subsection (1) on the archive upload date, and
 - (b) any other information of a prescribed description that is held by the undertaker on that date.
 - (3C) Where an undertaker records information as required by subsection (1) or (1B), or updates such information, the undertaker must, within a prescribed period, enter the recorded or updated information into NUAR.
 - (3D) The duty under subsection (3C) does not apply in relation to information recorded or updated before the archive upload date.
 - (3E) A duty under subsection (3B) or (3C) does not apply in such cases as may be prescribed.
 - (3F) Information must be entered into NUAR under subsection (3B) or (3C) in such form and manner as may be prescribed.”;
 - (g) in subsection (4)(a), omit “not exceeding level 5 on the standard scale”;
 - (h) after subsection (6) insert—
 - “(7) For the purposes of subsection (3B) the Secretary of State must by regulations—
 - (a) specify a date as “the archive upload date”, and
 - (b) specify a period beginning with that date as the “initial upload period”.
 - (8) For the meaning of “NUAR”, see section 106A.”
- (4) For section 80 (duty to inform undertakers of location of apparatus) substitute—
- “80 Duties to report missing or incorrect information in relation to apparatus**
- (1) Subsection (2) applies where a person executing works of any description in a street finds an item of apparatus belonging to an undertaker in relation to which prescribed information—
 - (a) is not entered in NUAR, or
 - (b) is entered in NUAR but is incorrect.
 - (2) The person must take such steps as are reasonably practicable to inform the undertaker to whom the item belongs of the missing or incorrect information.
 - (3) Where a person executing works of any description in a street finds an item of apparatus which does not belong to the person and is unable, after taking such steps as are reasonably practicable, to ascertain to whom the item belongs, the person must—

- (a) if the person is an undertaker, enter into NUAR, in such form and manner as may be prescribed, prescribed information in relation to the item;
 - (b) in any other case, inform the street authority of that information.
- (4) Subsections (2) and (3) have effect subject to such exceptions as may be prescribed.
- (5) A person who fails to comply with subsection (2) or (3) commits an offence.
- (6) A person who commits an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) Before making regulations under this section the Secretary of State must consult—
 - (a) such representatives of persons likely to be affected by the regulations as the Secretary of State considers appropriate, and
 - (b) such other persons as the Secretary of State considers appropriate.
- (8) For the meaning of “NUAR”, see section 106A.”
- (5) Before section 81 (duty to maintain apparatus) insert—

“Other duties and liabilities of undertakers in relation to apparatus”.
- (6) In section 104 (regulations), after subsection (1) insert—
 - “(1A) Before making regulations under section 79 or 80 the Secretary of State must consult the Welsh Ministers.
 - (1B) Regulations under this Part may make supplementary or incidental provision.”
- (7) In consequence of the provision made by subsection (4), omit section 47 of the Traffic Management Act 2004.”

Member's explanatory statement

This amendment amends the New Roads and Street Works Act 1991 so as to impose new duties on undertakers to keep records of, and share information relating to, apparatus in streets; and makes amendments consequential on those changes.

Secretary Michelle Donelan

Gov NC41

To move the following Clause—

“Pre-commencement consultation

A requirement to consult under a provision inserted into the New Roads and Street Works Act 1991 by section (*National Underground Asset Register*) or (*Information in relation to apparatus*) may be satisfied by consultation before,

as well as consultation after, the provision inserting that provision comes into force.”

Member's explanatory statement

This amendment provides that a requirement that the Secretary of State consult under a provision inserted into the New Roads and Street Works Act 1991 by the new clauses inserted by Amendments NC39 and NC40 may be satisfied by consultation undertaken before or after the provision inserting that provision comes into force.

Secretary Michelle Donelan

Gov NC42

To move the following Clause—

“Transfer of certain functions to Secretary of State

- (1) The powers to make regulations under section 79(1) and (2) of the New Roads and Street Works Act 1991, so far as exercisable in relation to Wales, are transferred to the Secretary of State.
- (2) The power to make regulations under section 79(1A) of that Act (as inserted by section 46(2) A42 of the Traffic Management Act 2004), so far as exercisable in relation to Wales, is transferred to the Secretary of State.
- (3) The Street Works (Records) (England) Regulations 2002 (S.I. 2002/3217) have effect as if the reference to England in regulation 1(2) were a reference to England and Wales.
- (4) The Street Works (Records) (Wales) Regulations 2005 (S.I. 2005/1812) are revoked.”

Member's explanatory statement

This amendment provides that certain powers to make regulations under section 79 of the New Roads and Street Works Act 1991, so far as exercisable in relation to Wales, are transferred from the Welsh Ministers to the Secretary of State; and makes provision in relation to regulations already made under those powers.

Jane Hunt

NC1

Peter Aldous
Mrs Flick Drummond
Mr David Jones
Greg Smith
Martin Vickers

Selaine Saxby
Holly Mumby-Croft

Sir Oliver Heald
Robin Millar

Sally-Ann Hart

To move the following Clause—

“Processing of data in relation to a case-file prepared by the police service for submission to the Crown Prosecution Service for a charging decision

- (1) The 2018 Act is amended in accordance with subsection (2).

(2) In the 2018 Act, after section 40 insert—

“40A Processing of data in relation to a case-file prepared by the police service for submission to the Crown Prosecution Service for a charging decision

- (1) This section applies to a set of processing operations consisting of the preparation of a case-file by the police service for submission to the Crown Prosecution Service for a charging decision, the making of a charging decision by the Crown Prosecution Service, and the return of the case-file by the Crown Prosecution Service to the police service after a charging decision has been made.
- (2) The police service is not obliged to comply with the first data protection principle except insofar as that principle requires processing to be fair, or the third data protection principle, in preparing a case-file for submission to the Crown Prosecution Service for a charging decision.
- (3) The Crown Prosecution Service is not obliged to comply with the first data protection principle except insofar as that principle requires processing to be fair, or the third data protection principle, in making a charging decision on a case-file submitted for that purpose by the police service.
- (4) If the Crown Prosecution Service decides that a charge will not be pursued when it makes a charging decision on a case-file submitted for that purpose by the police service it must take all steps reasonably required to destroy and delete all copies of the case-file in its possession.
- (5) If the Crown Prosecution Service decides that a charge will be pursued when it makes a charging decision on a case-file submitted for that purpose by the police service it must return the case-file to the police service and take all steps reasonably required to destroy and delete all copies of the case-file in its possession.
- (6) Where the Crown Prosecution Service decides that a charge will be pursued when it makes a charging decision on a case-file submitted for that purpose by the police service and returns the case-file to the police service under subsection (5), the police service must comply with the first data protection principle and the third data protection principle in relation to any subsequent processing of the data contained in the case-file.
- (7) For the purposes of this section—
 - (a) The police service means—
 - (i) constabulary maintained by virtue of an enactment, or
 - (ii) subject to section 126 of the Criminal Justice and Public Order Act 1994 (prison staff not to be regarded as in police service), any other service whose members have the powers or privileges of a constable.
 - (b) The preparation of, or preparing, a case-file by the police service for submission to the Crown Prosecution Service for a charging decision includes the submission of the file.

- (c) A case-file includes all information obtained by the police service for the purpose of preparing a case-file for submission to the Crown Prosecution Service for a charging decision.””

Member's explanatory statement

This new clause adjusts Section 40 of the Data Protection Act 2018 to exempt the police service and the Crown Prosecution Service from the first and third data protection principles contained within the 2018 Act so that they can share unredacted data with one another when making a charging decision.

John Penrose

NC2

To move the following Clause—

“Common standards and timeline for implementation

- (1) Within one month of the passage of this Act, the Secretary of State must by regulations require those appointed as decision-makers to create, publish and update as required open and common standards for access to customer data and business data.
- (2) Standards created by virtue of subsection (1) must be interoperable with those created as a consequence of Part 2 of the Retail Banking Market Investigation Order 2017, made by the Competition and Markets Authority.
- (3) Regulations under section 66 and 68 must ensure interoperability of customer data and business data with standards created by virtue of subsection (1).
- (4) Within one month of the passage of this Act, the Secretary of State must publish a list of the sectors to which regulations under section 66 and section 68 will apply within three years of the passage of the Act, and the date by which those regulations will take effect in each case.”

Member's explanatory statement

This new clause, which is intended to be placed in Part 3 (Customer data and business data) of the Bill, would require interoperability across all sectors of the economy in smart data standards, including the Open Banking standards already in effect, and the publication of a timeline for implementation.

Sir Chris Bryant

NC3

To move the following Clause—

“Provision about representation of data subjects

- (1) Section 190 of the Data Protection Act 2018 is amended as follows.
- (2) In subsection (1), leave out “After the report under section 189(1) is laid before Parliament, the Secretary of State may” and insert “The Secretary of State must, within three months of the passage of the Data Protection and Digital Information Act 2024, ”.

Member's explanatory statement

This new clause would require the Secretary of State to exercise powers under s190 DPA2018 to allow organisations to raise data breach complaints on behalf of data subjects generally, in the absence of a particular subject who wishes to bring forward a claim about misuse of their own personal data.

Sir Chris Bryant

NC4

To move the following Clause—

“Review of notification of changes of circumstances legislation

- (1) The Secretary of State must commission a review of the operation of the Social Security (Notification of Changes of Circumstances) Regulations 2010.
- (2) In conducting the review, the designated reviewer must—
 - (a) consider the current operation and effectiveness of the legislation;
 - (b) identify any gaps in its operation and provisions;
 - (c) consider and publish recommendations as to how the scope of the legislation could be expanded to include non-public sector, voluntary and private sector holders of personal data.
- (3) In undertaking the review, the reviewer must consult—
 - (a) specialists in data sharing;
 - (b) people and organisations who campaign for the interests of people affected by the legislation;
 - (c) people and organisations who use the legislation;
 - (d) any other persons and organisations the review considers appropriate.
- (4) The Secretary of State must lay a report of the review before each House of Parliament within six months of this Act coming into force.”

Member's explanatory statement

This new clause requires a review of the operation of the “Tell Us Once” programme, which seeks to provide simpler mechanisms for citizens to pass information regarding births and deaths to government, and consideration of whether the progress of “Tell Us Once” could be extended to non-public sector holders of data.

Sir Chris Bryant

NC5

To move the following Clause—

“Definition of “biometric data”

Article 9 of the UK GDPR is amended by the omission, in paragraph 1, of the words “for the purpose of uniquely identifying a natural person”.”

Member's explanatory statement

This new clause would amend the UK General Data Protection Regulation to extend the protections currently in place for biometric data for identification to include biometric data for the purpose of classification.

Mr David Davis

NC43

To move the following Clause—

“Right to use non-digital verification services

- (1) This section applies when an organisation—
 - (a) requires an individual to use a verification service, and
 - (b) uses a digital verification service for that purpose.
- (2) The organisation—
 - (a) must make a non-digital alternative method of verification available to any individual required to use a verification service, and
 - (b) must provide information about digital and non-digital methods of verification to those individuals before verification is required.”

Member's explanatory statement

This new clause, which is intended for insertion into Part 2 of the Bill (Digital verification services), creates the right for data subjects to use non-digital identity verification services as an alternative to digital verification services, thereby preventing digital verification from becoming mandatory in certain settings.

Carol Monaghan

NC44

Patrick Grady

To move the following Clause—

“Transfer of functions to the Investigatory Powers Commissioner’s Office

The functions of the Surveillance Camera Commissioner are transferred to the Investigatory Powers Commissioner.”

Robin Millar

NC45

★ To move the following Clause—

“Interoperability of data and collection of comparable healthcare statistics across the UK

- (1) The Health and Social Care Act 2012 is amended as follows.

- (2) After section 250, insert the following section—

“250A Interoperability of data and collection of comparable healthcare statistics across the UK

- (1) The Secretary of State must prepare and publish an information standard specifying binding data interoperability requirements which apply across the whole of the United Kingdom.
 - (2) An information standard prepared and published under this section—
 - (a) must include guidance about the implementation of the standard;
 - (b) may apply to any public body which exercises functions in connection with the provision of health services anywhere in the United Kingdom.
 - (3) A public body to which an information standard prepared and published under this section applies must have regard to the standard.
 - (4) The Secretary of State must report to Parliament each year on progress on the implementation of an information standard prepared in accordance with this section.
 - (5) For the purposes of this section—

“health services” has the same meaning as in section 250 of this Act, except that for “in England” there is substituted “anywhere in the United Kingdom”, and “the health service” in parts of the United Kingdom other than England has the meaning given by the relevant statute of that part of the United Kingdom;

“public body” has the same meaning as in section 250 of this Act.”
- (3) In section 254 (Powers to direct NHS England to establish information systems), after subsection (2), insert—
- “(2A) The Secretary of State must give a direction under subsection (1) directing NHS England to collect and publish information about healthcare performance and outcomes in all parts of the United Kingdom in a way which enables comparison between different parts of the United Kingdom.
 - (2B) Before giving a direction by virtue of subsection (2A), the Secretary of State must consult—
 - (a) the bodies responsible for the collection and publication of official statistics in each part of the United Kingdom,
 - (b) Scottish Ministers,
 - (c) Welsh Ministers, and
 - (d) Northern Ireland departments.
 - (2C) The Secretary of State may not give a direction by virtue of subsection (2A) unless a copy of the direction has been laid before, and approved by resolution of, both Houses of Parliament.

(2CA) Scottish Ministers, Welsh Ministers and Northern Ireland departments must arrange for the information relating to the health services for which they have responsibility described in the direction given by virtue of subsection (2A) to be made available to NHS England in accordance with the direction.

(2D) For the purposes of a direction given by virtue of subsection (2A), the definition of “health and social care body” given in section 259(11) applies as if for “England” there were substituted “the United Kingdom”.””

Layla Moran

NC46

★ To move the following Clause—

“Assessment of impact of Act on EU adequacy

- (1) Within six months of the passage of this Act, the Secretary of State must carry out an assessment of the impact of the Act on EU adequacy, and lay a report of that assessment before both Houses of Parliament.
- (2) The report must assess the impact on—
 - (a) data risk, and
 - (b) small and medium-sized businesses.
- (3) The report must quantify the impact of the Act in financial terms.”

Layla Moran

NC47

★ To move the following Clause—

“Review of the impact of the Act on anonymisation and the identifiability of data subjects

- (1) Within six months of the passage of this Act, the Secretary of State must lay before Parliament the report of an assessment of the impact of the measures in the Act on anonymisation and the identifiability of data subjects.
- (2) The report must include a comparison between the rights afforded to data subjects under this Act with those afforded to data subjects by the EU General Data Protection Regulation.”

Mr Marcus Fysh

278

★ Clause 5, page 6, line 15, leave out paragraphs (b) and (c)

Member's explanatory statement

This amendment and Amendment 279 would remove the power for the Secretary of State to create pre-defined and pre-authorised “recognised legitimate interests”, for data processing. Instead, the

current test would continue to apply in which personal data can only be processed in pursuit of a legitimate interest, as balanced with individual rights and freedoms.

Mr Marcus Fysh

279

★ Clause 5, page 6, line 23, leave out subsections (4), (5) and (6)

Member's explanatory statement

See explanatory statement to Amendment 278.

Layla Moran

230

★ Clause 5, page 7, leave out lines 1 and 2 and insert—

“8. The Secretary of State may not make regulations under paragraph 6 unless a draft of the regulations has been laid before both Houses of Parliament for the 60-day period.

8A. The Secretary of State must consider any representations made during the 60-day period in respect of anything in the draft regulations laid under paragraph 8.

8B. If, after the end of the 60-day period, the Secretary of State wishes to proceed to make the regulations, the Secretary of State must lay before Parliament a draft of the regulations (incorporating any changes the Secretary of State considers appropriate pursuant to paragraph 8A).

8C. Draft regulations laid under paragraph 8B must, before the end of the 40-day period, have been approved by a resolution of each House of Parliament.

8D. In this Article—

“the 40-day period” means the period of 40 days beginning on the day on which the draft regulations mentioned in paragraph 8 are laid before Parliament (or, if it is not laid before each House of Parliament on the same day, the later of the days on which it is laid);

“the 60-day period” means the period of 60 days beginning on the day on which the draft regulations mentioned in paragraph 8B are laid before Parliament (or, if it is not laid before each House of Parliament on the same day, the later of the days on which it is laid).

8E. When calculating the 40-day period or the 60-day period for the purposes of paragraph 8D, ignore any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.”

Member's explanatory statement

This amendment would make regulations made in respect of recognised legitimate interest subject to a super-affirmative Parliamentary procedure.

Kate Osborne

11

David Mundell

Clause 5, page 7, line 12, at end insert—

““internal administrative purposes”, in relation to special category data, means the conditions set out for lawful processing in paragraph 1 of Schedule 1 of the Data Protection Act 2018.”

Member's explanatory statement

This amendment clarifies that the processing of special category data in employment must follow established principles for reasonable processing, as defined by Schedule 1(1) of the Data Protection Act 2018.

Secretary Michelle Donelan

Gov 252

★ Page 10, line 2, leave out Clause 7

Member's explanatory statement

This amendment is consequential on NC48. Clause 7 amends words in paragraph 23(4) of Schedule 1 to the Data Protection Act 2018. That provision is repealed by the new Clause.

Carol Monaghan

222

Patrick Grady
Layla Moran

☆ Page 10, line 8, leave out Clause 8

Sir Chris Bryant

3

David Mundell

Clause 8, page 10, leave out line 31

Member's explanatory statement

This amendment would mean that the resources available to the controller could not be taken into account when determining whether a request is vexatious or excessive.

Sir Chris Bryant

2

Clause 8, page 11, line 34, at end insert—

“(6A) When informing the data subject of the reasons for not taking action on the request in accordance with subsection (6), the controller must provide evidence of why the request has been treated as vexatious or excessive.”

Member's explanatory statement

This amendment would require the data controller to provide evidence of why a request has been considered vexatious or excessive if the controller is refusing to take action on the request.

Secretary Michelle Donelan

Gov 17

Clause 8, page 12, line 2, leave out "after subsection (2)" and insert "before subsection (3)"

Member's explanatory statement

This technical change is consequential on the amendment of section 94 of the Data Protection Act 2018 in the new clause inserted by Amendment NC7.

Carol Monaghan

223

Patrick Grady

☆ Page 15, line 22, leave out Clause 10

Carol Monaghan

224

Patrick Grady

☆ Page 18, line 7, leave out Clause 12

Layla Moran

236

★ Clause 12, page 18, line 21, at end insert—

"(c) a data subject is an identified or identifiable individual who is affected by a significant decision, irrespective of the direct presence of their personal data in the decision-making process."

Member's explanatory statement

This amendment would clarify that a "data subject" includes identifiable individuals who are subject to data-based and automated decision-making, whether or not their personal data is directly present in the decision-making process.

Layla Moran

232

★ Clause 12, page 19, line 12, leave out "solely" and insert "predominantly"

Member's explanatory statement

This amendment would mean safeguards for data subjects' rights, freedoms and legitimate interests would have to be in place in cases where a significant decision in relation to a data subject was taken based predominantly, rather than solely, on automated processing.

Sir Chris Bryant

5

Clause 12, page 19, line 12, after “solely” insert “or partly”

Member's explanatory statement

This amendment would mean that the protections provided for by the new Article 22C would apply where a decision is based either solely or partly on automated processing, not only where it is based solely on such processing.

Layla Moran

233

★ Clause 12, page 19, line 18, at end insert “including the reasons for the processing.”

Member's explanatory statement

This amendment would require data controllers to provide the data subject with the reasons for the processing of their data in cases where a significant decision in relation to a data subject was taken based on automated processing.

Carol Monaghan

225

Patrick Grady

☆ Clause 12, page 19, line 18, at end insert—

“(aa) require the controller to inform the data subject when a decision described in paragraph 1 has been taken in relation to the data subject;”

Sir Chris Bryant

221

☆ Clause 12, page 20, line 3, at end insert

“7. When exercising the power to make regulations under this Article, the Secretary of State must have regard to the following statement of principles:

Digital information principles at work

1. People should have access to a fair, inclusive and trustworthy digital environment at work.
2. Algorithmic systems should be designed and used to achieve better outcomes: to make work better, not worse, and not for surveillance. Workers and their representatives should be involved in this process.
3. People should be protected from unsafe, unaccountable and ineffective algorithmic systems at work. Impacts on individuals and groups must be assessed in advance and monitored, with reasonable and proportionate steps taken.
4. Algorithmic systems should not harm workers’ mental or physical health, or integrity.
5. Workers and their representatives should always know when an algorithmic system is being used, how and why it is being used, and what impacts it may have on them or their work.

6. Workers and their representatives should be involved in meaningful consultation before and during use of an algorithmic system that may significantly impact work or people.
7. Workers should have control over their own data and digital information collected about them at work.
8. Workers and their representatives should always have an opportunity for human contact, review and redress when an algorithmic system is used at work where it may significantly impact work or people. This includes a right to a written explanation when a decision is made.
9. Workers and their representatives should be able to use their data and digital technologies for contact and association to improve work quality and conditions.
10. Workers should be supported to build the information, literacy and skills needed to fulfil their capabilities through work transitions."

Member's explanatory statement

This amendment would insert into new Article 22D of the UK GDPR a requirement for the Secretary of State to have regard to the statement of digital information principles at work when making regulations about automated decision-making.

Sir Chris Bryant

4

Clause 15, page 25, line 4, at end insert "(including in the cases specified in sub-paragraphs (a) to (c) of paragraph 3 of Article 35)"

Member's explanatory statement

This amendment, together with Amendment 1, would provide a definition of what constitutes "high risk processing" for the purposes of applying Articles 27A, 27B and 27C, which require data controllers to designate, and specify the duties of, a "senior responsible individual" with responsibility for such processing.

Secretary Michelle Donelan

Gov 18

Clause 16, page 29, line 29, after first "of" insert "high risk"

Member's explanatory statement

This amendment is consequential on Amendment 21.

Secretary Michelle Donelan

Gov 19

Clause 16, page 29, line 34, after "individuals" insert "(“high risk processing”)"

Member's explanatory statement

See the explanatory statement for Amendment 21.

Secretary Michelle Donelan

Gov 20

Clause 16, page 29, line 35, leave out “such” and insert “high risk”

Member's explanatory statement

This amendment is consequential on Amendment 19.

Secretary Michelle Donelan

Gov 21

Clause 16, page 30, line 1, leave out “processing of personal data” and insert “high risk processing that is being”

Member's explanatory statement

This amendment, read with Amendment 19, provides that, in relation to processing of personal data to which the UK GDPR applies, controllers are only required to keep records of processing currently being carried out that is likely to result in a high risk to the rights and freedoms of individuals.

Secretary Michelle Donelan

Gov 22

Clause 16, page 30, leave out lines 4 and 5

Member's explanatory statement

This amendment is consequential on Amendment 21.

Secretary Michelle Donelan

Gov 23

Clause 16, page 30, line 6, after “data” insert “undergoing the high risk processing”

Member's explanatory statement

This amendment is consequential on Amendment 21.

Secretary Michelle Donelan

Gov 24

Clause 16, page 30, line 8, leave out “controller is processing the personal data” and insert “high risk processing is being carried out”

Member's explanatory statement

This amendment and Amendments 25 and 26 are consequential on Amendment 21 and are also made for consistency with the reference in new Article 30A(2) of the UK GDPR to processing carried out on behalf of, as well as by, the controller.

Secretary Michelle Donelan

Gov 25

Clause 16, page 30, line 10, leave out from second “the” to “(including” in line 11 and insert “personal data undergoing the high risk processing has been, or is intended to be, shared by or on behalf of the controller”

Member's explanatory statement

See the explanatory statement for Amendment 24.

Secretary Michelle Donelan

Gov 26

Clause 16, page 30, line 13, leave out “to retain the personal data” and insert “the high risk processing to be carried out”

Member's explanatory statement

See the explanatory statement for Amendment 24.

Secretary Michelle Donelan

Gov 27

Clause 16, page 30, leave out lines 14 to 18 and insert—

- “(e) whether the high risk processing includes processing described in Article 9(1) (processing of special categories of personal data) and, if so, which type of such processing, and
- “(f) whether the high risk processing includes processing described in Article 10(1) (processing of personal data relating to criminal convictions etc) and, if so, which type of such processing.”

Member's explanatory statement

This amendment is partly consequential on Amendment 21. It also adjusts the current wording of points (e) and (f) to reflect the terms of Articles 9(1) and 10(1).

Secretary Michelle Donelan

Gov 28

Clause 16, page 30, line 20, after “data” insert “undergoing high risk processing”

Member's explanatory statement

This amendment is consequential on Amendment 21.

Secretary Michelle Donelan

Gov 29

Clause 16, page 30, line 21, leave out “its processing of personal data” and insert “high risk processing that it is carrying out”

Member's explanatory statement

This amendment, read with Amendment 19, provides that, in relation to processing of personal data to which the UK GDPR applies, processors are only required to keep records of processing currently being carried out that is likely to result in a high risk to the rights and freedoms of individuals.

Secretary Michelle Donelan

Gov 30

Clause 16, page 30, leave out lines 24 and 25

Member's explanatory statement

This amendment is consequential on Amendment 29.

Secretary Michelle Donelan

Gov 31

Clause 16, page 30, line 27, leave out "acting" and insert "carrying out high risk processing"

Member's explanatory statement

This amendment is consequential on Amendment 29.

Secretary Michelle Donelan

Gov 32

Clause 16, page 30, line 28, after "data" insert "undergoing the high risk processing"

Member's explanatory statement

This amendment is consequential on Amendment 29.

Secretary Michelle Donelan

Gov 33

Clause 16, page 30, line 31, after "data" insert "undergoing high risk processing"

Member's explanatory statement

This amendment is consequential on Amendment 29.

Secretary Michelle Donelan

Gov 34

Clause 16, page 30, line 36, after "of" insert "high risk"

Member's explanatory statement

This amendment is consequential on Amendments 21 and 29.

Secretary Michelle Donelan

Gov 35

Clause 16, page 31, line 9, after “data” insert “that is being”

Member's explanatory statement

This amendment and Amendment 42 make clear that the duty to keep records of processing of personal data to which Part 3 of the Data Protection Act 2018 applies only to processing currently being carried out.

Secretary Michelle Donelan

Gov 36

Clause 16, page 31, leave out lines 11 and 12

Member's explanatory statement

This amendment and Amendments 37, 38, 39 and 40 to provisions to be inserted in the Data Protection Act 2018 are for consistency with Amendments 22, 23, 24, 25 and 26 which amend provisions to be inserted in the UK GDPR.

Secretary Michelle Donelan

Gov 37

Clause 16, page 31, line 13, after “data” insert “undergoing the processing”

Member's explanatory statement

See the explanatory statement for Amendment 36.

Secretary Michelle Donelan

Gov 38

Clause 16, page 31, line 15, leave out “the controller is processing the personal data” and insert “the processing is being carried out”

Member's explanatory statement

See the explanatory statement for Amendment 36.

Secretary Michelle Donelan

Gov 39

Clause 16, page 31, line 17, leave out from second “the” to “(including” in line 18 and insert “personal data has been, or is intended to be, shared by or on behalf of the controller”

Member's explanatory statement

See the explanatory statement for Amendment 36.

Secretary Michelle Donelan

Gov 40

Clause 16, page 31, line 20, leave out “to retain the personal data” and insert “the personal data to be retained”

Member's explanatory statement

See the explanatory statement for Amendment 36.

Secretary Michelle Donelan

Gov 41

Clause 16, page 31, leave out lines 22 and 23 and insert—

“(e) whether the processing of the personal data includes sensitive processing (as defined in section 35(8)) and, if so, which type of such processing.”

Member's explanatory statement

This technical amendment changes new section 61A(2)(e) of the Data Protection Act 2018 so that it makes provision by reference to “sensitive processing”, rather than to personal data described in section 35(8).

Secretary Michelle Donelan

Gov 42

Clause 16, page 31, line 26, leave out “its processing of personal data” and insert “the processing that it is carrying out”

Member's explanatory statement

See the explanatory statement for Amendment 35.

Secretary Michelle Donelan

Gov 43

Clause 16, page 31, leave out lines 29 and 30

Member's explanatory statement

This amendment is proposed for consistency with the change proposed by Amendment 36.

Secretary Michelle Donelan

Gov 44

Clause 16, page 31, line 33, after “data” insert “undergoing the processing”

Member's explanatory statement

This amendment is proposed for consistency with the change proposed by Amendment 37.

Kate Osborne

12

David Mundell

Page 32, line 7, leave out Clause 17

Member's explanatory statement

This amendment keeps the current requirement on police in the Data Protection Act 2018 to justify why they have accessed an individual's personal data.

Sir Chris Bryant

1

Clause 18, page 32, line 18, leave out paragraph (c) and insert—

- “(c) omit paragraph 2,
- (ca) in paragraph 3—
 - (i) for “data protection” substitute “high risk processing”,
 - (ii) in sub-paragraph (a), for “natural persons” substitute “individuals”,
 - (iii) in sub-paragraph (a) for “natural person” substitute “individual” in both places where it occurs,
- (cb) omit paragraphs 4 and 5,”

Member's explanatory statement

This amendment would leave paragraph 3 of Article 35 of the UK GDPR in place (with amendments reflecting amendments made by the Bill elsewhere in the Article), thereby ensuring that there is a definition of “high risk processing” on the face of the Regulation.

Carol Monaghan

226

Patrick Grady

☆ Page 39, line 38, leave out Clause 26

Carol Monaghan

227

Patrick Grady

☆ Page 43, line 2, leave out Clause 27

Carol Monaghan

228

Patrick Grady

☆ Page 46, line 32, leave out Clause 28

Secretary Michelle Donelan

Gov 45

Clause 33, page 56, line 23, leave out subsection (2) and insert—

“(2) After section 124C (inserted by section 32 of this Act) insert—

“124D Secretary of State’s recommendations

- (1) Where a code is prepared under section 121, 122, 123, 124 or 124A, the Commissioner must—
 - (a) submit what the Commissioner considers to be the final version to the Secretary of State, and
 - (b) publish it.
- (2) Before the end of the period of 40 days beginning when the code is submitted to the Secretary of State, the Secretary of State must—
 - (a) decide whether to make recommendations relating to the code (whether about its content or about other matters),
 - (b) send any recommendations to the Commissioner in writing, and
 - (c) publish the recommendations.
- (3) If the Secretary of State does not make recommendations, the Secretary of State must lay the code before Parliament.
- (4) If the Secretary of State makes recommendations, the Commissioner must, before the end of the response period—
 - (a) consider the recommendations,
 - (b) decide whether to withdraw the code, and
 - (c) prepare and publish a document responding to the recommendations.
- (5) In subsection (4), “the response period” means—
 - (a) the period of 40 days beginning when the recommendations are published, or
 - (b) such longer period as the Secretary of State and the Commissioner may agree.
- (6) The document responding to the recommendations must—
 - (a) state whether the Commissioner accepts each recommendation,
 - (b) give reasons for accepting, or not accepting, each recommendation,
 - (c) state the steps that the Commissioner has taken, or proposes to take, in response to each recommendation,
 - (d) state whether the code is withdrawn, and
 - (e) where relevant, give reasons for not withdrawing the code.
- (7) If the document states that the code is not withdrawn, the Secretary of State must lay the code before Parliament.
- (8) The withdrawal of a code does not prevent the code being re-submitted to the Secretary of State under subsection (1), with or without modifications.

- (9) This section applies in relation to amendments prepared under section 121, 122, 123, 124 or 124A as it applies in relation to codes prepared under those sections.
- (10) In calculating the periods of 40 days mentioned in subsections (2) and (5), no account is to be taken of—
- (a) Saturdays and Sundays,
 - (b) Christmas Day or Good Friday, or
 - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.””

Member's explanatory statement

This amendment provides that the Information Commissioner must consider recommendations from the Secretary of State about a code of practice before the code is laid before Parliament for approval (and removes provision included in the Bill which requires a code to be approved by the Secretary of State).

Layla Moran

235

★ Page 57, line 29, leave out Clause 34

Member's explanatory statement

This amendment would leave in place the existing regime, which refers to “manifestly unfounded” or excessive requests to the Information Commissioner, rather than the proposed change to “vexatious” or excessive requests.

Secretary Michelle Donelan

Gov 46

Clause 48, page 76, line 32, at end insert—

“(aa) a list of recognised supplementary codes (see section (*List of recognised supplementary codes*)),”

Member's explanatory statement

This amendment is consequential on Amendment NC12.

Secretary Michelle Donelan

Gov 47

Clause 48, page 77, line 3, at beginning insert—

“(3) In subsection (2),””

Member's explanatory statement

This amendment is consequential on Amendment NC25.

Mr Marcus Fysh

237

- ★ Clause 48, page 77, line 4, leave out “individual” and insert “person”

Member's explanatory statement

This amendment and Amendments 238 to 240 are intended to enable the digital verification services covered by the Bill to include verification of organisations as well as individuals.

Mr Marcus Fysh

238

- ★ Clause 48, page 77, line 5, leave out “individual” and insert “person”

Member's explanatory statement

See explanatory statement to Amendment 237.

Mr Marcus Fysh

239

- ★ Clause 48, page 77, line 6, leave out “individual” and insert “person”

Member's explanatory statement

See explanatory statement to Amendment 237.

Mr Marcus Fysh

240

- ★ Clause 48, page 77, line 7, leave out “individual” and insert “person”

Member's explanatory statement

See explanatory statement to Amendment 237.

Mr Marcus Fysh

241

- ★ Clause 48, page 77, line 8, at end insert (on new line)—

“and the facts which may be so ascertained, verified or confirmed may include the fact that an individual has a claimed connection with a legal person.”

Member's explanatory statement

This amendment would ensure that the verification services covered by the Bill will include verification that an individual has a claimed connection with a legal person.

Secretary Michelle Donelan

Gov 48

Clause 49, page 77, line 11, leave out “setting out rules”

Member's explanatory statement

This amendment is consequential on Amendment 49.

Secretary Michelle Donelan

Gov 49

Clause 49, page 77, line 12, at end insert—

“(1A) The document must—

- (a) set out rules concerning the provision of digital verification services, and
- (b) set out conditions to be met for rules concerning the provision of such services which supplement the rules set out in the document to be approved by the Secretary of State under section (*Approval of a supplementary code*) or designated by the Secretary of State under section (*Designation of a supplementary code*).”

Member's explanatory statement

This amendment requires the Secretary of State to set conditions for approval or designation of supplementary rules concerning the provision of digital verification services.

Secretary Michelle Donelan

Gov 50

Clause 49, page 77, line 13, leave out subsection (2) and insert—

“(2) In this Part—

- (a) the document described in subsection (1) is referred to as the DVS trust framework;
- (b) the rules set out in the document are referred to as the main code;
- (c) a set of rules concerning the provision of digital verification services which supplement the main code is referred to as a supplementary code.”

Member's explanatory statement

This amendment sets out the meaning of terms used in the Part.

Mr Marcus Fysh

280

★ Clause 49, page 77, line 13, at end insert—

“(2A) The DVS trust framework must include a description of how the provision of digital verification services is expected to uphold the Identity Assurance Principles.

(2B) Schedule (*Identity Assurance Principles*) describes each Identity Assurance Principle and its effect.”

Mr Marcus Fysh

281

★ Clause 49, page 77, line 13, at end insert—

“(2A) The DVS trust framework must allow valid attributes to be protected by zero-knowledge proof and other decentralised technologies, without restriction upon how and by whom those proofs may be held or processed.”

Secretary Michelle Donelan

Gov 51

Clause 49, page 77, line 24, leave out from second “framework,” to end of line 26 and insert “must specify the time it comes into force (which must not be a time earlier than the time it is published).”

Member's explanatory statement

This amendment adjusts the time when the DVS trust framework (or revisions of it) may come into force.

Secretary Michelle Donelan

Gov 52

Clause 49, page 77, line 27, at end insert—

“(za) set different rules for different digital verification services,
(zb) set different conditions for approval or designation for different purposes,”

Member's explanatory statement

This amendment enables the DVS trust framework to set different rules for different digital verification services and to set different conditions for approval or designation for different purposes.

Secretary Michelle Donelan

Gov 53

Clause 49, page 77, line 29, at end insert—

- “(9) Subsection (10) applies where the Secretary of State revises and republishes the DVS trust framework and the revision includes an addition to, or alteration of, the main code.
- (10) The DVS trust framework may provide that from a date, or from the end of a period, specified in the framework a pre-revision certificate is required to be ignored for the purposes of sections 50(4)(a), (*Registration of additional services*)(1)(c), 53(1)(c) and (*Duty to remove services from the DVS register*)(1)(c).
- (11) In subsection (10), a “pre-revision certificate” means a certificate, certifying that digital verification services provided by the holder of the certificate are provided in accordance with the main code, which was issued before the time the relevant revision to the main code comes into force.”

Member's explanatory statement

This amendment, taken together with Amendment 78, replaces provision about “top-up certificates” with provision enabling the DVS trust framework to contain transitional provision about certificates issued before revisions to the main code come into force.

Secretary Michelle Donelan

Gov 54

Clause 50, page 78, line 4, leave out first “the”

Member's explanatory statement

This amendment, together with Amendment 56, clarifies that a person may hold a certificate which covers a wider range of digital verification services than those for which the person applies to be registered.

Secretary Michelle Donelan

Gov 55

Clause 50, page 78, line 5, leave out “DVS trust framework” and insert “main code”

Member's explanatory statement

This amendment is consequential on Amendment 50.

Secretary Michelle Donelan

Gov 56

Clause 50, page 78, line 6, after “of” insert “one or more of”

Member's explanatory statement

See the explanatory statement for Amendment 54.

Secretary Michelle Donelan

Gov 57

Clause 50, page 78, line 11, at end insert—

“(4A) The register must record the digital verification services in respect of which a person is, from time to time, registered.”

Member's explanatory statement

This amendment requires the Secretary of State to record on the DVS register which digital verification services a person is registered in respect of.

Secretary Michelle Donelan

Gov 58

Clause 50, page 78, line 17, leave out “55” and insert “49(10)”

Member's explanatory statement

This amendment is consequential on Amendments 78 and 53.

Secretary Michelle Donelan

Gov 59

Clause 50, page 78, line 18, leave out "section" and insert "Part,"

Member's explanatory statement

This amendment is consequential on Amendment NC25.

Secretary Michelle Donelan

Gov 60

Clause 50, page 78, line 23, leave out "DVS trust framework" and insert "main code"

Member's explanatory statement

This amendment is consequential on Amendment 50.

Secretary Michelle Donelan

Gov 61

Clause 50, page 78, line 23, at end insert—

"(8) In subsection (7)—"

Member's explanatory statement

This amendment is consequential on Amendment NC25.

Secretary Michelle Donelan

Gov 62

Clause 51, page 78, line 34, leave out "for registration in the DVS register" and insert "under section 50, (*Registration of additional services*), (*Supplementary notes*) or (*Addition of services to supplementary notes*)"

Member's explanatory statement

This amendment provides for how an application is made to add additional services to the DVS register, to include a note in the DVS register or to add services to a note.

Secretary Michelle Donelan

Gov 63

Clause 51, page 78, line 35, leave out "an application for registration in that register" and insert "the application"

Member's explanatory statement

This amendment is consequential on Amendment 62.

Secretary Michelle Donelan

Gov 64

Clause 51, page 78, line 37, leave out “an application for registration in that register” and insert “the application”

Member's explanatory statement

This amendment is consequential on Amendment 62.

Secretary Michelle Donelan

Gov 65

Clause 51, page 78, line 39, leave out “an application for registration in that register” and insert “the application”

Member's explanatory statement

This amendment is consequential on Amendment 62.

Secretary Michelle Donelan

Gov 66

Clause 52, page 79, line 5, leave out “applies for registration in the DVS register” and insert “makes an application under section 50, (*Registration of additional services*), (*Supplementary notes*) or (*Addition of services to supplementary notes*)”

Member's explanatory statement

This amendment enables the Secretary of State to charge fees for applications to add services to the DVS register, to include a note in the DVS register or to add services to a note.

Mr Marcus Fysh

248

★ Clause 52, page 79, line 7, at end insert—

“(1A) A determination under subsection (1) may specify an amount which is tiered to the size of the person and its role as specified in the DVS trust framework.”

Member's explanatory statement

This amendment would enable fees for application for registration in the DVS register to be determined on the basis of the size and role of the organisation applying to be registered.

Mr Marcus Fysh

243

★ Clause 52, page 79, line 8, after “may”, insert “not”

Member's explanatory statement

This amendment would provide that the fee for application for registration in the DVS register could not exceed the administrative costs of determining the application.

Secretary Michelle Donelan

Gov 67

Clause 52, page 79, line 9, leave out “an application for registration” and insert “the application”

Member's explanatory statement

This amendment is consequential on Amendment 66.

Mr Marcus Fysh

244

★ Clause 52, page 79, line 13, after “may”, insert “not”

Member's explanatory statement

This amendment would provide that the fee for continued registration in the DVS register could not exceed the administrative costs of that registration.

Secretary Michelle Donelan

Gov 68

Clause 52, page 79, line 16, after “summarily” insert “(or, in Scotland, recoverable)”

Member's explanatory statement

This amendment is to ensure that the provision about recovery of fees also works for recovery in Scotland.

Mr Marcus Fysh

245

★ Clause 52, page 79, line 21, at end insert—

“(10) The fees payable under this section must be reviewed every two years by the National Audit Office.”

Member's explanatory statement

This amendment would provide that the fees payable for DVS registration must be reviewed every two years by the NAO.

Secretary Michelle Donelan

Gov 69

Clause 53, page 79, line 26, after “provide” insert “all of the”

Member's explanatory statement

This amendment clarifies that a duty to remove a person from the DVS register arises only if the person no longer provides any digital verification services in respect of which they are registered.

Secretary Michelle Donelan

Gov 70

Clause 53, page 79, line 29, leave out “those digital verification services are” and insert “at least one of those digital verification services is”

Member's explanatory statement

This amendment clarifies that a person may have a certificate covering a wider range of digital verification services than those in respect of which they are registered.

Secretary Michelle Donelan

Gov 71

Clause 53, page 79, line 30, leave out “DVS trust framework” and insert “main code”

Member's explanatory statement

This amendment is consequential on Amendment 50.

Secretary Michelle Donelan

Gov 72

Clause 53, page 79, line 35, leave out “55” and insert “49(10)”

Member's explanatory statement

This amendment is consequential on Amendments 78 and 53.

Secretary Michelle Donelan

Gov 73

Clause 53, page 79, line 36, leave out subsection (3)

Member's explanatory statement

This amendment is consequential on Amendment 59.

Secretary Michelle Donelan

Gov 74

Clause 54, page 80, line 2, leave out “the Secretary of State is satisfied that”

Member's explanatory statement

This amendment is consequential on Amendment 76.

Secretary Michelle Donelan

Gov 75

Clause 54, page 80, line 4, leave out paragraph (a) and insert—

- “(a) the Secretary of State is satisfied that the person is failing to comply with the main code when providing one or more of the digital verification services in respect of which the person is registered,”

Member's explanatory statement

This amendment is in part consequential on Amendment 76 and also to clarify that the power to remove a person from the DVS register is exercisable if the person is failing to comply with the main code when providing some or all of the digital verification services in respect of which they are registered.

Secretary Michelle Donelan

Gov 76

Clause 54, page 80, line 6, at end insert—

- “(aa) the person has a supplementary note included in the DVS register and the Secretary of State is satisfied that the person is failing to comply with the supplementary code to which the note relates when providing one or more of the digital verification services recorded in the note, or”

Member's explanatory statement

The amendment enables the Secretary of State to remove a person from the DVS register if the person has a note in the register that they provide digital verification services in accordance with a supplementary code and they are failing to comply with the code when providing digital verification services.

Secretary Michelle Donelan

Gov 77

Clause 54, page 80, line 7, after the first “the” insert “Secretary of State is satisfied that the”

Member's explanatory statement

This amendment is consequential on Amendment 76.

Mr Marcus Fysh

247

★ Clause 54, page 80, line 38, after “person”, insert “or by other parties”

Member's explanatory statement

This amendment would enable others, for example independent experts, to make representations about a decision to remove a person from the DVS register, as well as the person themselves.

Mr Marcus Fysh

246

★ Clause 54, page 81, line 7, at end insert—

- “(11) The Secretary of State may not exercise the power granted by subsection (1) until the Secretary of State has consulted on proposals for how a decision to remove a person from the DVS register will be reached, including—
- (a) how information will be collected from persons impacted by a decision to remove the person from the register, and from others;

- (b) how complaints will be managed;
- (c) how evidence will be reviewed;
- (d) what the burden of proof will be on which a decision will be based."

Member's explanatory statement

This amendment would provide that the power to remove a person from the DVS register could not be exercised until the Secretary of State had consulted on the detail of how a decision to remove would be reached.

Secretary Michelle Donelan

Gov 78

Page 81, line 8, leave out Clause 55

Member's explanatory statement

This amendment is consequential on Amendment 53.

Secretary Michelle Donelan

Gov 79

Clause 56, page 82, line 19, leave out from "person" to end of line and insert "whose functions—

- (a) are of a public nature, or
- (b) include functions of that nature."

Member's explanatory statement

This amendment clarifies that a "public authority" means persons whose functions are entirely, or partly, functions of a public nature.

Secretary Michelle Donelan

Gov 80

Clause 60, page 85, line 25, leave out from "person" to end of line 26 and insert "whose functions—

- (a) are of a public nature, or
- (b) include functions of that nature."

Member's explanatory statement

This amendment clarifies that a "public authority" means persons whose functions are entirely, or partly, functions of a public nature.

Mr Marcus Fysh

249

★ Clause 62, page 86, line 17, at end insert—

“(3A) A notice under this section must give the recipient of the notice an opportunity to consult the Secretary of State on the content of the notice before providing the information required by the notice.”

Member's explanatory statement

This amendment would provide an option for consultation between the Secretary of State and the recipient of an information notice before the information required by the notice has to be provided.

Secretary Michelle Donelan

Gov 81

Clause 62, page 87, leave out lines 16 and 17

Member's explanatory statement

This amendment is consequential on Amendment 59.

Mr Marcus Fysh

242

★ Clause 63, page 87, line 21, leave out “may” and insert “must”

Member's explanatory statement

This amendment would require the Secretary of State to make arrangements for a person to exercise the Secretary of State’s functions under this Part of the Bill, so that an independent regulator would perform the relevant functions and not the Secretary of State.

Mr Marcus Fysh

250

★ Clause 64, page 87, line 34, at end insert—

“(1A) A report under subsection (1) must include a report on any arrangements made under section 63 for a third party to exercise functions under this Part.”

Member's explanatory statement

This amendment would require information about arrangements for a third party to exercise functions under this Part of the Bill to be included in the annual reports on the operation of the Part.

Secretary Michelle Donelan

Gov 82

Clause 65, page 88, line 13, leave out from “about” to end of line 15 and insert “—

- (i) where goods, services or digital content are supplied or provided,
- (ii) prices or other terms on which they are supplied or provided,
- (iii) how they are used, or

(iv) their performance or quality),”

Member's explanatory statement

This amendment adds a reference to information about how goods, services or digital content supplied or provided by a trader are used to the examples given in paragraph (b) of the definition of “business data”.

Secretary Michelle Donelan

Gov 83

Clause 65, page 88, line 17, after “content” insert “(or their supply or provision)”

Member's explanatory statement

This amendment makes clear that a reference to feedback about goods, services or digital content includes feedback about their supply or provision.

Secretary Michelle Donelan

Gov 84

Clause 65, page 88, line 18, leave out “business data” and insert “information described in paragraphs (a) to (c)”

Member's explanatory statement

This is a technical amendment to avoid the definition of “business data” relying on that label.

Secretary Michelle Donelan

Gov 85

Clause 65, page 88, line 22, leave out paragraph (a) and insert—

- “(a) information relating to goods, services and digital content supplied or provided by the trader to the customer or to another person at the customer’s request (such as, for example, information about—
 - (i) prices or other terms on which goods, services or digital content are supplied or provided to the customer or the other person,
 - (ii) how they are used by the customer or the other person, or
 - (iii) their performance or quality when used by the customer or the other person), and”

Member's explanatory statement

This amendment of the definition of “customer data” removes a reference to information relating to transactions and replaces it with a reference to a wider range of information.

Secretary Michelle Donelan

Gov 86

Clause 65, page 88, line 24, leave out “customer data” and insert “information described in paragraph (a), or of other information relating to a customer of a trader,”

Member's explanatory statement

This is a technical amendment to avoid the definition of "customer data" relying on that label.

Secretary Michelle Donelan

Gov 87

Clause 65, page 88, line 30, at end insert "(and see section (*Other data provision*))"

Member's explanatory statement

This amendment is consequential on Amendment NC32.

Secretary Michelle Donelan

Gov 88

Clause 65, page 88, line 37, leave out from "time" to end of line 40 and insert "—

- (i) purchased goods, services or digital content supplied or provided by T (whether for use by C or another person),
 - (ii) been supplied or provided by T with goods, services or digital content purchased from T by another person, or
 - (iii) otherwise received goods, services or digital content free of charge from T, and
- (b) C purchased or received the goods, services or digital content—"

Member's explanatory statement

This amendment makes clear that a person who receives, from a trader, goods, services or digital services purchased by another person is a customer of the trader for the purposes of Part 3 of the Bill.

Secretary Michelle Donelan

Gov 89

Clause 65, page 89, line 4, leave out "(3)(a), the references to purchase" and insert "(3), the references to purchase, supply, provision"

Member's explanatory statement

This amendment is consequential on Amendment 88.

Secretary Michelle Donelan

Gov 90

Clause 65, page 89, line 5, after "purchase" insert ", supply, provision"

Member's explanatory statement

This amendment is consequential on Amendment 88.

Secretary Michelle Donelan

Gov 91

Clause 65, page 89, line 6, at end insert—

“(4A) In subsections (3) and (4), references to purchasing goods, services or digital content include entering into an agreement to do so.”

Member's explanatory statement

This amendment makes clear that certain references to purchasing goods etc including entering into an agreement to do so.

Secretary Michelle Donelan

Gov 92

Clause 65, page 89, line 8, at end insert “(however expressed)”

Member's explanatory statement

This amendment is consequential on Amendments 84 and 86.

Secretary Michelle Donelan

Gov 93

Clause 65, page 89, line 12, at end insert “(however expressed)”

Member's explanatory statement

This amendment is consequential on Amendments 84 and 86.

Secretary Michelle Donelan

Gov 94

Clause 66, page 89, line 32, leave out from beginning to “in” and insert “take, on the customer’s behalf, action that the customer could take”

Member's explanatory statement

This amendment replaces a reference to an authorised person (in relation to customer data) exercising a customer’s rights with a reference to an authorised person taking action that the customer could take, in order to cover cases in which taking such action does not involve exercising the customer’s rights.

Secretary Michelle Donelan

Gov 95

Clause 67, page 90, line 12, leave out “or conditions imposed by a specified person”

Member's explanatory statement

This amendment and Amendment 119 remove unnecessary words. The definition of “specified” (in clause 81) enables regulations under Part 3 to specify a description of condition, such as a condition imposed by a particular person.

Secretary Michelle Donelan

Gov 96

Clause 67, page 90, line 18, leave out “exercising of customers’ rights” and insert “taking of action described in section 66(3)”

Member's explanatory statement

This amendment is consequential on Amendment 94.

Secretary Michelle Donelan

Gov 97

Clause 67, page 90, line 19, leave out “customer data to be provided” and insert “a data holder to provide customer data”

Member's explanatory statement

This amendment makes clear that what is being referred to is the provision of data by a data holder.

Secretary Michelle Donelan

Gov 98

Clause 67, page 90, line 21, leave out “the use of” and insert “a data holder, customer or authorised person to use”

Member's explanatory statement

This amendment makes clear that what is being referred to is the use of facilities and services by data holders, customers or authorised persons.

Secretary Michelle Donelan

Gov 99

Clause 67, page 90, line 23, leave out “programme” and insert “programming”

Member's explanatory statement

This amendment is consequential on Amendment 189.

Secretary Michelle Donelan

Gov 100

Clause 67, page 90, line 24, leave out “to participate in, or comply with, arrangements” and insert “or authorised person to comply with specified standards, or participate in specified arrangements,”

Member's explanatory statement

This amendment makes clear that data holders and authorised persons may be required to comply with particular standards, or participate in particular arrangements, in connection with the provision of customer data.

Secretary Michelle Donelan

Gov 101

Clause 67, page 90, line 27, after “holder” insert “or authorised person”

Member's explanatory statement

This amendment enables regulations under Part 3 to require an authorised person to provide assistance in connection with facilities or services used to provide customer data.

Secretary Michelle Donelan

Gov 102

Clause 67, page 90, line 27, after “for,” insert “specified”

Member's explanatory statement

This amendment makes clear that regulations under Part 3 may require a data holder to provide, or arrange for, particular assistance.

Secretary Michelle Donelan

Gov 103

Clause 67, page 90, line 29, at end insert—

“(e) provision about interface bodies (see section (*Interface bodies*)).”

Member's explanatory statement

This amendment is consequential on new clause NC27.

Secretary Michelle Donelan

Gov 104

Clause 67, page 91, line 1, leave out “the use of” and insert “an authorised person to use”

Member's explanatory statement

This amendment makes clear that what is being referred to is the use of facilities and services by authorised persons.

Secretary Michelle Donelan

Gov 105

Clause 67, page 91, line 3, leave out “programme” and insert “programming”

Member's explanatory statement

This amendment is consequential on Amendment 189.

Secretary Michelle Donelan

Gov 106

Clause 67, page 91, line 4, leave out from “requiring” to “for” in line 5 and insert “an authorised person to comply with specified standards, or participate in specified arrangements,”

Member's explanatory statement

This amendment makes clear that an authorised person may be required to comply with particular standards, or participate in particular arrangements, in connection with the processing of customer data.

Secretary Michelle Donelan

Gov 107

Clause 67, page 91, line 7, leave out “the” and insert “an”

Member's explanatory statement

This amendment is consequential on Amendment 106.

Secretary Michelle Donelan

Gov 108

Clause 67, page 91, line 8, at beginning insert “specified”

Member's explanatory statement

This amendment makes clear that regulations under Part 3 may require an authorised person to provide, or arrange for, particular assistance.

Secretary Michelle Donelan

Gov 109

Clause 67, page 91, line 9, at end insert—

“(ca) provision about interface bodies (see section (*Interface bodies*));”

Member's explanatory statement

This amendment is consequential on new clause NC27.

Secretary Michelle Donelan

Gov 110

Clause 67, page 91, line 24, leave out “, authorised persons or decision-makers” and insert “or authorised persons”

Member's explanatory statement

This amendment is consequential on Amendment 140, which inserts separate provision about decision-makers' procedures for handling complaints.

Secretary Michelle Donelan

Gov 111

Clause 67, page 91, line 34, at end insert—

“(11) In subsections (4)(d) and (7)(c), references to assistance include actual or contingent financial assistance (such as, for example, a grant, loan, guarantee or indemnity or buying a company’s share capital).”

Member's explanatory statement

This amendment makes clear that certain references to assistance in connection with the establishment, maintenance or management of facilities or services for the provision of data include financial assistance.

Secretary Michelle Donelan

Gov 112

Clause 68, page 91, line 38, leave out “on request”

Member's explanatory statement

This amendment enables regulations under Part 3 to require a data holder to provide business data without a request being made.

Secretary Michelle Donelan

Gov 113

Clause 68, page 91, line 39, after “trader” insert “to whom the business data relates”

Member's explanatory statement

This amendment makes clear which trader is being referred to.

Secretary Michelle Donelan

Gov 114

Clause 68, page 91, line 40, leave out “(a “third party recipient”)”

Member's explanatory statement

This amendment is consequential on Amendment 115.

Secretary Michelle Donelan

Gov 115

Clause 68, page 91, line 40, at end insert—

“(1A) In this Part, “third party recipient” means a person to whom a data holder is required to provide business data by virtue of provision made under subsection (1)(b).”

Member's explanatory statement

This amendment inserts a definition of “third party recipient”.

Secretary Michelle Donelan

Gov 116

Clause 68, page 91, line 43, at end insert—

“(2A) The Secretary of State or the Treasury may by regulations—

- (a) make provision requiring a public authority that is a third party recipient (whether by virtue of those regulations or other data regulations), or a person appointed by such a public authority, to publish business data or to provide business data—
 - (i) to a customer of the trader to whom the business data relates, or
 - (ii) to another person of a specified description,
- (b) in relation to the public authority, or a person appointed by the public authority to do something described in paragraph (a), make any provision that could be made in relation to a data holder, in connection with business data, in reliance on subsection (2) or sections 69 to 78, other than provision imposing a levy on the public authority or person, and
- (c) in relation to a person to whom the public authority is required to provide business data by virtue of provision made under paragraph (a)(ii), make any provision that could be made in relation to a third party recipient in reliance on sections 69 to 78.”

Member's explanatory statement

This amendment enables regulations under Part 3 to make, in relation to a public authority to whom business data is provided in accordance with such regulations, the same provision that regulations may make in relation to data holders (other than provision imposing a levy on the authority).

Secretary Michelle Donelan

Gov 117

Clause 69, page 92, line 14, leave out “make provision about requests for business data” and insert “require business data to be provided on request and make provision about requests”

Member's explanatory statement

This amendment is consequential on Amendment 112.

Secretary Michelle Donelan

Gov 118

Clause 69, page 92, line 21, leave out “persons approved to receive it (“approved persons”)” and insert “customers, or third party recipients, who are approved to receive it”

Member's explanatory statement

This amendment removes an unnecessary label (“approved persons”).

Secretary Michelle Donelan

Gov 119

Clause 69, page 92, line 23, leave out “or conditions imposed by a specified person”

Member's explanatory statement

See the explanatory statement for Amendment 95.

Secretary Michelle Donelan

Gov 120

Clause 69, page 92, line 30, leave out “business data to be provided or published” and insert “a data holder to provide or publish business data”

Member's explanatory statement

This amendment makes clear that what is being referred to is the provision or publication of data by a data holder.

Secretary Michelle Donelan

Gov 121

Clause 69, page 92, line 32, leave out “the use of” and insert “a data holder, customer or third party recipient to use”

Member's explanatory statement

This amendment makes clear that what is being referred to is the use of facilities and services by data holders, customers or third party recipients.

Secretary Michelle Donelan

Gov 122

Clause 69, page 92, line 34, leave out “programme” and insert “programming”

Member's explanatory statement

This amendment is consequential on Amendment 189.

Secretary Michelle Donelan

Gov 123

Clause 69, page 92, line 35, leave out “to participate in, or comply with, arrangements” and insert “or third party recipient to comply with specified standards, or participate in specified arrangements,”

Member's explanatory statement

This amendment makes clear that data holders and third party recipients may be required to comply with particular standards, or participate in particular arrangements, in connection with the provision or publication of business data.

Secretary Michelle Donelan

Gov 124

Clause 69, page 92, line 38, after “holder” insert “or third party recipient”

Member's explanatory statement

This amendment enables regulations under Part 3 to require a third party recipient to provide assistance in connection with facilities or services used to provide or publish business data.

Secretary Michelle Donelan

Gov 125

Clause 69, page 92, line 38, after “for,” insert “specified”

Member's explanatory statement

This amendment makes clear that regulations under Part 3 may require a data holder to provide, or arrange for, particular assistance.

Secretary Michelle Donelan

Gov 126

Clause 69, page 92, line 40, at end insert—

“(e) provision about interface bodies (see section (*Interface bodies*)).”

Member's explanatory statement

This amendment is consequential on new clause NC27.

Secretary Michelle Donelan

Gov 127

Clause 69, page 93, line 11, leave out “person” and insert “third party recipient”

Member's explanatory statement

This amendment limits the power under clause 69(7) to make provision about the processing of business data to power to make provision about processing by third party recipients.

Secretary Michelle Donelan

Gov 128

Clause 69, page 93, line 12, leave out “the use of” and insert “a third party recipient to use”

Member's explanatory statement

This amendment makes clear that what is being referred to is the use of facilities and services by third party recipients.

Secretary Michelle Donelan

Gov 129

Clause 69, page 93, line 14, leave out “programme” and insert “programming”

Member's explanatory statement

This amendment is consequential on Amendment 189.

Secretary Michelle Donelan

Gov 130

Clause 69, page 93, line 15, leave out from “requiring” to “for” in line 16 “a third party recipient to comply with specified standards, or participate in specified arrangements,”

Member's explanatory statement

This amendment makes clear that a third party recipient may be required to comply with particular standards, or participate in particular arrangements, in connection with the processing of business data.

Secretary Michelle Donelan

Gov 131

Clause 69, page 93, line 18, leave out “the person” and insert “a third party recipient”

Member's explanatory statement

This amendment is consequential on Amendment 127.

Secretary Michelle Donelan

Gov 132

Clause 69, page 93, line 18, after “for,” insert “specified”

Member's explanatory statement

This amendment makes clear that regulations under Part 3 may require a person to provide, or arrange for, particular assistance.

Secretary Michelle Donelan

Gov 133

Clause 69, page 93, line 20, at end insert—

“(ca) provision about interface bodies (see section (*Interface bodies*));”

Member's explanatory statement

This amendment is consequential on new clause NC27.

Secretary Michelle Donelan

Gov 134

Clause 69, page 93, line 26, leave out “an approved person” and insert “a third party recipient”

Member's explanatory statement

This amendment is consequential on Amendment 118.

Secretary Michelle Donelan

Gov 135

Clause 69, page 93, line 28, leave out “approved person” and insert “third party recipient”

Member's explanatory statement

This amendment is consequential on Amendment 118.

Secretary Michelle Donelan

Gov 136

Clause 69, page 93, line 31, leave out “decision-makers” and insert “third party recipients”

Member's explanatory statement

This amendment enables regulations under Part 3 to require third party recipients to implement procedures for handling complaints. It is also consequential on Amendment 140, which inserts separate provision about decision-makers’ procedures for handling complaints.

Secretary Michelle Donelan

Gov 137

Clause 69, page 93, line 41, at end insert—

“(11) In subsections (4)(d) and (7)(c), references to assistance include actual or contingent financial assistance (such as, for example, a grant, loan, guarantee or indemnity or buying a company’s share capital).”

Member's explanatory statement

This amendment makes clear that certain references to assistance in connection with the establishment, maintenance or management of facilities or services for the provision of data include financial assistance.

Secretary Michelle Donelan

Gov 138

Clause 70, page 94, line 12, leave out from beginning to “include” and insert “The monitoring powers that may be conferred on a decision-maker”

Member's explanatory statement

This tidies up the drafting of provision referring to a decision-maker’s monitoring powers.

Secretary Michelle Donelan

Gov 139

Clause 70, page 94, line 13, after “of” insert “documents or”

Member's explanatory statement

This amendment makes clear that regulations under Part 3 may confer powers on decision-makers to require documents (as well as information) to be provided.

Secretary Michelle Donelan

Gov 140

Clause 70, page 94, line 20, at end insert—

“(6A) The regulations may make provision about complaints, including provision requiring a decision-maker to implement procedures for the handling of complaints.”

Member's explanatory statement

This amendment enables regulations under Part 3 to require decision-makers to have procedures for handling complaints.

Secretary Michelle Donelan

Gov 141

Clause 70, page 94, line 22, after second “specified” insert “documents or”

Member's explanatory statement

This amendment makes clear that regulations under Part 3 may impose duties on decision-makers to publish or provide documents (as well as information).

Secretary Michelle Donelan

Gov 142

Clause 70, page 94, line 25, leave out “carried out by a specified person” and insert “exercised by another person”

Member's explanatory statement

This amendment and Amendment 153 make drafting changes for consistency with other provisions in Part 3 of the Bill which refer to powers being exercised.

Secretary Michelle Donelan

Gov 143

Clause 70, page 94, line 38, leave out “to produce and publish” and insert “—

(a) to produce”

Member's explanatory statement

See the explanatory statement for Amendment 144.

Secretary Michelle Donelan

Gov 144

Clause 70, page 94, line 41, at end insert—

“(b) to publish the guidance, and
(c) to provide copies to specified persons.”

Member's explanatory statement

This amendment and Amendment 143 make clear that regulations under Part 3 may require a decision-maker to provide copies of its guidance.

Secretary Michelle Donelan

Gov 145

Clause 71, page 95, leave out lines 4 to 7 and insert—

- “(a) for the purpose of monitoring compliance with data regulations or requirements imposed in exercise of a power conferred by regulations under this Part, and
- (b) for the enforcement of data regulations or such requirements,”

including provision for monitoring or enforcement by a specified public authority (an “enforcer”).”

Member's explanatory statement

This amendment makes clear that an enforcer’s powers may include powers to monitor, as well as enforce, requirements.

Secretary Michelle Donelan

Gov 146

Clause 71, page 95, line 11, after “of” insert “documents or”

Member's explanatory statement

This amendment makes clear that regulations under Part 3 may confer powers on enforcers to require documents (as well as information) to be provided.

Secretary Michelle Donelan

Gov 147

Clause 71, page 95, line 11, after “information,” insert—

- “(aa) powers to require an individual to attend at a place and answer questions,”

Member's explanatory statement

This amendment enables regulations under Part 3 to confer power on an enforcer to require people to answer questions in interviews.

Secretary Michelle Donelan

Gov 148

Clause 71, page 95, line 28, after “regulations” insert “, a requirement imposed in exercise of a power conferred by regulations under this Part”

Member's explanatory statement

This amendment enables regulations under Part 3 to confer power on an enforcer to publicly censure a person who fails to comply with a requirement imposed on them in exercise of power conferred by such regulations.

Secretary Michelle Donelan

Gov 149

Clause 71, page 95, line 29, leave out from “with” to second “in” in line 30 and insert “an unlimited fine, or a fine not exceeding a specified amount,”

Member's explanatory statement

This amendment removes words which are unnecessary given the definition of “specified” (in clause 81), which refers to matters specified in regulations under Part 3. See also amendment 195 (which amends that definition).

Secretary Michelle Donelan

Gov 150

Clause 71, page 95, line 34, at end insert “, an interface body”

Member's explanatory statement

This amendment enables regulations under Part 3 to create an offence in respect of an act or omission which prevents an interface body (see new clause NC27) from accessing information, documents, equipment or other material.

Secretary Michelle Donelan

Gov 151

Clause 71, page 95, line 41, at end insert—

“(ba) a failure to comply with a requirement imposed in exercise of a power conferred by regulations under this Part;”

Member's explanatory statement

This amendment enables regulations under Part 3 to provide for a financial penalty to be imposed for a failure to comply with a requirement imposed in exercise of a power conferred by such regulations.

Secretary Michelle Donelan

Gov 152

Clause 71, page 96, line 13, leave out “enforcement under the regulations” and insert “monitoring or enforcement described in subsection (1)”

Member's explanatory statement

This amendment is consequential on Amendment 145.

Secretary Michelle Donelan

Gov 153

Clause 71, page 96, line 18, leave out “carried out by a specified person” and insert “exercised by another person”

Member's explanatory statement

See the explanatory statement for Amendment 142.

Secretary Michelle Donelan

Gov 154

Clause 71, page 96, line 28, leave out “to produce and publish” and insert “—
(a) to produce”

Member's explanatory statement

See the explanatory statement for Amendment 155.

Secretary Michelle Donelan

Gov 155

Clause 71, page 96, line 31, at end insert—

- “(b) to publish the guidance, and
- (c) to provide copies to specified persons.”

Member's explanatory statement

This amendment and Amendment 154 make clear that regulations under Part 3 may require an enforcer to provide copies of its guidance.

Secretary Michelle Donelan

Gov 156

Clause 72, page 96, line 37, after “decision-maker” insert “, an interface body”

Member's explanatory statement

This amendment and Amendment 157 are consequential on new clause NC27, which enables regulations under Part 3 to confer monitoring powers (including powers to require information and documents to be provided) on interface bodies.

Secretary Michelle Donelan

Gov 157

Clause 72, page 97, line 29, after “decision-maker” insert “, an interface body”

Member's explanatory statement

See the explanatory statement for Amendment 156.

Secretary Michelle Donelan

Gov 158

Clause 73, page 98, line 5, leave out subsection (2) and insert—

- “(2) The regulations must provide for the amount of a financial penalty to be—
- (a) a specified amount or an amount determined in accordance with the regulations, or
 - (b) an amount not exceeding such an amount, unless section (*The FCA and financial services interfaces: penalties and levies*) confers power to provide otherwise.”

Member's explanatory statement

This amendment makes clear that regulations under Part 3 may specify the maximum amount of a financial penalty (or a method for determining that) instead of specifying the amount itself (or a method for determining that). It is also consequential on new clause NC30.

Secretary Michelle Donelan

Gov 159

Clause 73, page 98, line 8, leave out “issue” and insert “produce”

Member's explanatory statement

See the explanatory statement for Amendment 160.

Secretary Michelle Donelan

Gov 160

Clause 73, page 98, line 11, at end insert—

- “(aa) requiring an enforcer to publish the guidance and to provide copies to specified persons;”

Member's explanatory statement

This amendment and Amendment 159 make clear that regulations under Part 3 may require an enforcer to provide copies of its guidance.

Secretary Michelle Donelan

Gov 161

Clause 73, page 98, line 27, leave out “circumstances specified in the regulations” and insert “specified circumstances”

Member's explanatory statement

This amendment simplifies some wording which relies on the definition of “specified” in clause 81.

Secretary Michelle Donelan

Gov 162

Clause 73, page 98, line 29, leave out from “increased” to end of line 31 and insert “in the event of late payment by—

- (i) a specified amount or an amount determined in accordance with the regulations, or
- (ii) an amount not exceeding such an amount;”

Member's explanatory statement

This amendment makes clear that regulations under Part 3 may specify the maximum amount by which a financial penalty may be increased in the event of late payment.

Secretary Michelle Donelan

Gov 163

Clause 74, page 99, line 3, at end insert—

“(ba) interface bodies;”

Member's explanatory statement

This amendment provides that regulations under Part 3 may make provision enabling interface bodies (see new clause NC27) to charge fees for performing duties, or exercising powers, imposed or conferred by such regulations.

Secretary Michelle Donelan

Gov 164

Clause 74, page 99, line 20, leave out subsection (5) and insert—

- “(5) Regulations under subsection (1) may provide for the amount, or maximum amount, of a fee to increase at specified times and by—
- (a) a specified amount or an amount determined in accordance with the regulations, or
 - (b) an amount not exceeding such an amount.”

Member's explanatory statement

This amendment makes clear that regulations under Part 3 may specify the maximum amount by which fees may be increased.

Secretary Michelle Donelan

Gov 165

Clause 75, page 99, line 32, leave out “body” and insert “authority”

Member's explanatory statement

This amendment is consequential on Amendment 193.

Secretary Michelle Donelan

Gov 166

Clause 75, page 99, line 33, after “holders” insert “, authorised persons or third party recipients”

Member's explanatory statement

This amendment enables a levy under clause 75 to be imposed on authorised persons (as defined in clause 66) and third party recipients (as defined in clause 68), as well as on data holders (as defined in clause 65).

Secretary Michelle Donelan

Gov 167

Clause 75, page 99, line 34, leave out “decision-makers or enforcers or by persons” and insert “a person listed in subsection (1A), or a person”

Member's explanatory statement

This amendment and Amendment 169 provide that regulations under Part 3 may impose a levy on data holders for the purposes of meeting expenses incurred by interface bodies (see new clause NC27) and public authorities subject to requirements imposed under clause 68(2A) (see Amendment 116).

Secretary Michelle Donelan

Gov 168

Clause 75, page 99, line 35, after “behalf” insert “, in performing duties, or exercising powers, imposed or conferred by regulations under this Part”

Member's explanatory statement

This amendment is consequential on Amendment 167. It makes clear that a levy under Part 3 can only be imposed in connection with expenses incurred in the performance of duties, or the exercise of powers, imposed or conferred by regulations under that Part.

Secretary Michelle Donelan

Gov 169

Clause 75, page 99, line 37, at end insert—

“(1A) Those persons are—

- (a) decision-makers;
- (b) interface bodies;
- (c) enforcers;
- (d) public authorities subject to requirements imposed by regulations made in reliance on section 68(2A).”

Member's explanatory statement

See the explanatory statement for Amendment 167.

Secretary Michelle Donelan

Gov 170

Clause 75, page 99, line 39, leave out “decision-makers or enforcers” and insert “a person”

Member's explanatory statement

This amendment is consequential on Amendments 167 and 169.

Secretary Michelle Donelan

Gov 171

Clause 75, page 99, line 42, leave out “decision-makers or enforcers” insert “person”

Member's explanatory statement

This amendment is consequential on Amendments 167 and 169.

Secretary Michelle Donelan

Gov 172

Clause 75, page 100, line 1, leave out “body” and insert “authority”

Member's explanatory statement

This amendment is consequential on Amendment 193.

Secretary Michelle Donelan

Gov 173

Clause 75, page 100, line 6, leave out “body” and insert “public authority”

Member's explanatory statement

This amendment is consequential on Amendment 193.

Secretary Michelle Donelan

Gov 174

Clause 76, page 100, line 15, leave out from “duties” to end of line 16 and insert “, or exercising powers, imposed or conferred by regulations made under this Part or exercising other functions in connection with such regulations”

Member's explanatory statement

This amendment adjusts the wording in clause 76(1) for consistency with similar wording in clauses 74(1) and 75(1).

Secretary Michelle Donelan

Gov 175

Clause 76, page 100, line 17, leave out subsection (2) and insert—

“(2) But subsection (1) does not enable financial assistance to be provided to a person listed in subsection (2A) or to a person acting on their behalf.

- (2A) Those persons are—
- (a) data holders,
 - (b) customers,
 - (c) authorised persons, or
 - (d) third party recipients, other than a third party recipient that is a public authority subject to requirements imposed by regulations made in reliance on section 68(2A)."

Member's explanatory statement

This amendment prevents the provision of financial assistance to people acting on behalf of certain persons. It also enables financial assistance to be provided to a public authority that is subject to requirements under clause 68(2A) (see Amendment 116).

Secretary Michelle Donelan

Gov 176

Clause 78, page 101, line 11, after "to" insert "standards,"

Member's explanatory statement

This amendment makes clear that regulations under Part 3 may make provision by reference to published standards.

Secretary Michelle Donelan

Gov 177

Clause 78, page 101, line 14, at end insert ", and make provision in connection with the procedure for exercising the functions;"

Member's explanatory statement

This amendment makes clear that regulations under Part 3 may make provision about the procedure for exercising functions conferred by the regulations.

Secretary Michelle Donelan

Gov 178

Clause 78, page 101, line 16, at end insert—

- "(1A) Regulations under this Part may not require or enable a person to make rules imposing requirements on a person, except as provided by sections (*The FCA and financial services interfaces*) to (*The FCA and financial services interfaces: penalties and levies*)."

Member's explanatory statement

This amendment makes clear that, subject to certain exceptions, regulations under Part 3 may not confer powers to make rules.

Secretary Michelle Donelan

Gov 179

Clause 78, page 101, line 16, at end insert—

- “(1B) Regulations under this Part may not require or enable a person to set the maximum amount of a fine, except that such regulations may make provision about the maximum amount referring to the standard scale, the statutory maximum or a similar amount.
- (1C) Regulations under this Part may not require or enable a person to set the amount or maximum amount of, or of an increase in, a penalty or fee or to set the method for determining such an amount, except as provided by subsection (1D) and sections (*The FCA and financial services interfaces: supplementary*) and (*The FCA and financial services interfaces: penalties and levies*).
- (1D) Regulations under this Part—
- (a) may make provision about the amount or method described in subsection (1C) referring to a published index, and
 - (b) may require or enable a person to make decisions, in accordance with a maximum amount or method set out in the regulations, about the amount of, or of an increase or reduction in, a penalty or fee payable in a particular case.”

Member's explanatory statement

This amendment makes clear that, subject to certain exceptions, amounts of fines, penalties and fees must be set out on the face of regulations under Part 3.

Secretary Michelle Donelan

Gov 180

Clause 78, page 101, line 18, leave out “or repeal” and insert “, repeal or revoke”

Member's explanatory statement

This amendment and Amendment 185 are technical amendments. They make the power under clause 78(2) to make regulations modifying primary legislation consistent with the power under clause 114.

Secretary Michelle Donelan

Gov 181

Clause 78, page 101, line 27, leave out “and (2)” and insert “, (2) and (2A)”

Member's explanatory statement

This amendment provides that the first regulations under new subsection (2A) of clause 68 making provision about a particular description of business data are subject to the affirmative resolution procedure. New subsection (2A) is inserted by amendment 116.

Secretary Michelle Donelan

Gov 182

Clause 78, page 101, line 30, at end insert "or interface bodies"

Member's explanatory statement

This amendment provides that regulations under clause 66 or 68 which make requirements more onerous for interface bodies (see new clause NC27) are subject to the affirmative resolution procedure.

Secretary Michelle Donelan

Gov 183

Clause 78, page 101, line 31, after "70(4)," insert "*(Interface bodies),*"

Member's explanatory statement

This amendment provides that regulations conferring monitoring powers on interface bodies (see new clause NC27) are subject to the affirmative resolution procedure.

Secretary Michelle Donelan

Gov 184

Clause 78, page 101, line 31, leave out "or 75" and insert ", 75, (*The FCA and financial services interfaces*), (*The FCA and financial services interfaces: penalties and levies*) or (*Liability in damages*)"

Member's explanatory statement

This amendment provides that regulations made under new clauses NC28, NC31 and NC31 are subject to the affirmative resolution procedure.

Secretary Michelle Donelan

Gov 185

Clause 78, page 101, line 32, leave out "or repeal" and insert ", repeal or revoke"

Member's explanatory statement

See the explanatory statement for Amendment 180.

Secretary Michelle Donelan

Gov 186

Clause 78, page 101, line 38, at end insert "or representatives of such persons"

Member's explanatory statement

Clause 78(5) requires the Secretary of State and the Treasury, where they consider it appropriate, to consult certain persons before making regulations under Part 3 that are subject to the affirmative procedure. This amendment adds representatives of persons likely to be affected by the regulations to the list of persons to be consulted.

Secretary Michelle Donelan

Gov 187

Clause 78, page 102, line 4, leave out paragraph (e)

Member's explanatory statement

This amendment and Amendment 199 remove retained direct principal EU legislation from definitions of "primary legislation" in provisions about regulation-making powers, reflecting changes to the status of retained direct EU legislation made by the Retained EU Law (Revocation and Reform) Act 2023 (see section 9 and paragraph 13 of Schedule 3).

Secretary Michelle Donelan

Gov 188

Clause 81, page 102, line 28, after "Part" insert "(in addition to the terms defined in section 65)"

Member's explanatory statement

Clause 81 lists terms defined for Part 3 of the Bill. This amendment adds a reference to terms defined for that Part in clause 65.

Secretary Michelle Donelan

Gov 189

Clause 81, page 102, leave out lines 29 and 30 and insert—

""application programming interface" means a facility for allowing software to make use of facilities contained in other software;"

Member's explanatory statement

This amendment replaces the definition of "application programme interface".

Secretary Michelle Donelan

Gov 190

Clause 81, page 102, leave out line 31

Member's explanatory statement

This amendment removes the definition of "approved person" and is consequential on Amendment 118.

Secretary Michelle Donelan

Gov 191

Clause 81, page 103, line 7, at end insert—

""the FCA" has the meaning given by section (*The FCA and financial services interfaces*);

"FCA additional requirement" has the meaning given by section (*The FCA and financial services interfaces*);

“FCA interface rules” has the meaning given by section (*The FCA and financial services interfaces*);”

Member's explanatory statement

This amendment inserts definitions of “the FCA”, “FCA additional requirements” and “FCA interface rules”, cross-referring to new clause NC28, which defines those terms to mean the Financial Conduct Authority and certain requirements imposed, and rules made, by that Authority.

Secretary Michelle Donelan

Gov 192

Clause 81, page 103, line 7, at end insert—

““interface arrangements” has the meaning given by section (*Interface bodies*);
 “interface body” has the meaning given by section (*Interface bodies*);
 “interface standards” has the meaning given by section (*Interface bodies*);”

Member's explanatory statement

This amendment inserts into the interpretation clause for Part 3 definitions of terms introduced in new clause NC27.

Secretary Michelle Donelan

Gov 193

Clause 81, page 103, line 15, leave out “body” means a body or other” and insert “authority” means a”

Member's explanatory statement

This amendment changes a definition of “public body” to a definition of “public authority”, to reflect the fact that the definition includes persons other than bodies.

Secretary Michelle Donelan

Gov 194

Clause 81, page 103, leave out lines 18 and 19

Member's explanatory statement

This amendment removes an unnecessary qualification of the definition of “public body” relating to persons whose functions include, but are not limited to, functions of a public nature.

Secretary Michelle Donelan

Gov 195

Clause 81, page 103, line 24, at end insert “, or in exercise of a power conferred by such regulations, except to the extent otherwise provided in this Part”

Member's explanatory statement

This amendment amends the definition of “specified” to make clear that that term generally includes something specified in exercise of a power conferred by regulations under Part 3.

Secretary Michelle Donelan

Gov 196

Clause 81, page 103, line 25, leave out "68(1)(b)" and insert "68(1A)"

Member's explanatory statement

This amendment is consequential on Amendments 114 and 115.

Sir Chris Bryant

6

Clause 83, page 107, leave out from line 26 to the end of line 34 on page 108

Member's explanatory statement

This amendment would leave out the proposed new regulation 6B of the PEC Regulations, which would enable consent to be given, or an objection to be made, to cookies automatically.

Sir Chris Bryant

217

☆ Page 109, line 20, leave out Clause 86

Member's explanatory statement

This amendment would leave out the clause which would enable the sending of direct marketing electronic mail on a "soft opt-in" basis.

Sir Chris Bryant

218

☆ Page 110, line 1, leave out Clause 87

Member's explanatory statement

This amendment would remove the clause which would enable direct marketing for the purposes of democratic engagement. See also Amendment 220.

Secretary Michelle Donelan

Gov 253

★ Clause 87, page 110, line 4, leave out paragraph (a) and insert—

"(a) falls within subsection (2), and"

Member's explanatory statement

This amendment and Amendment 254 are consequential on the insertion of a new definition of "democratic engagement" by Amendment 256.

Secretary Michelle Donelan

Gov 254

★ Clause 87, page 110, leave out lines 6 and 7 and insert—

“(2) Communications activity falls within this subsection if—”

Member's explanatory statement

See the explanatory statement for Amendment 253.

Secretary Michelle Donelan

Gov 255

★ Clause 87, page 110, line 13, leave out sub-paragraphs (i) and (ii) and insert—

- “(i) by, or at the instigation of, a registered political party, and
(ii) for the purposes of the party’s election activities or democratic engagement activities,”

Member's explanatory statement

This amendment clarifies the types of processing by a registered political party that fall within clause 87(2) (processing that may be the subject of an exception from a direct marketing provision in the PEC Regulations (defined in clause 82)). See also the definitions inserted by Amendments 256, 260 and 261.

Sir Chris Bryant

219

☆ Page 111, line 6, leave out Clause 88

Member's explanatory statement

This amendment is consequential on Amendment 218.

Secretary Michelle Donelan

Gov 256

★ Clause 88, page 111, leave out line 7 and insert—

“(A1) For the purposes of section 87(2)(a) and (b)—

- (a) “democratic engagement activities” means activities whose purpose is to support or promote democratic engagement;
- (b) “democratic engagement” means engagement by the public, a section of the public or a particular person with, or with an aspect of, an electoral system or other democratic process in the United Kingdom, either generally or in connection with a particular matter, whether by participating in the system or process or engaging with it in another way;
- (c) examples of democratic engagement activities include activities whose purpose is—
 - (i) to promote the registration of individuals as electors;

- (ii) to increase the number of electors participating in elections for elected representatives, referendums or processes for recall petitions in which they are entitled to participate;
- (iii) to support an elected representative or registered political party in discharging functions, or carrying on other activities, described in section section 87(2)(a) or (b);
- (iv) to support a person to become a candidate for election as an elected representative;
- (v) to support a campaign or campaigning referred to in section 87(2)(c), (d) or (e);
- (vi) to raise funds to support activities whose purpose is described in sub-paragraphs (i) to (v);
- (d) examples of activities that may be democratic engagement activities include—
 - (i) gathering opinions, whether by carrying out a survey or by other means;
 - (ii) communicating with electors.

(1) In section 87 and this section—”

Member's explanatory statement

This amendment clarifies the meaning of “democratic engagement activities” in clause 87, which confers power on the Secretary of State to create exceptions from direct marketing provisions in the PEC Regulations (defined in clause 82) for certain communications activities.

Secretary Michelle Donelan

Gov 257

★ Clause 88, page 111, leave out lines 18 and 19

Member's explanatory statement

This amendment is consequential on Amendment 256.

Secretary Michelle Donelan

Gov 258

★ Clause 88, page 111, line 26, after “(4)” insert “and (4A)”

Member's explanatory statement

This amendment is consequential on Amendment 264.

Secretary Michelle Donelan

Gov 259

★ Clause 88, page 111, line 26, leave out “and (5)”

Member's explanatory statement

This amendment is consequential on Amendment 265.

Secretary Michelle Donelan

Gov 260

★ Clause 88, page 111, line 26, at end insert—

“election activities”, in relation to a registered political party, means—

- (a) campaigning in connection with an election for an elected representative, and
- (b) activities whose purpose is to enhance the standing of the party, or of a candidate standing for election in its name, with electors;

“elector” means a person who is entitled to vote in an election for an elected representative or in a referendum;”

Member's explanatory statement

This amendment inserts definitions of terms used in provision inserted by Amendments 255 and 256.

Secretary Michelle Donelan

Gov 261

★ Clause 88, page 111, line 33, at end insert—

“registered political party” means a person or organisation included in a register maintained under section 23 of the Political Parties, Elections and Referendums Act 2000;

“successful”, in relation to a recall petition, has the same meaning as in the Recall of MPs Act 2015 (see section 14 of that Act).”

Member's explanatory statement

This amendment inserts a definition of terms used in provision inserted by Amendments 255, 256 and 264.

Secretary Michelle Donelan

Gov 262

★ Clause 88, page 112, line 39, at end insert—

<p>“(ga) a mayor for the area of a combined county authority established under section 9 of the Levelling-up and Regeneration Act 2023</p>	<p>section 118A of the Representation of the People Act 1983, as applied by the Combined Authorities (Mayoral Elections) Order 2017 (S.I. 2017/67)”</p>
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Member's explanatory statement

This amendment adds mayors for the area of a combined county authority established under section 9 of the Levelling-up and Regeneration Act 2023 to the list of elected representatives for the purposes of clause 87 (exceptions from direct marketing provisions under the PEC Regulations).

Secretary Michelle Donelan

Gov 263

★ Clause 88, page 113, line 31, leave out “period of 30 days beginning with the day after the”

Member's explanatory statement

This amendment decreases the period for which former MPs and members of the devolved legislatures continue to be treated as "elected representatives" for the purposes of clause 87 (exceptions from direct marketing provisions under the PEC Regulations) following a general election.

Secretary Michelle Donelan

Gov 264

★ Clause 88, page 113, line 32, at end insert—

“(4A) For the purposes of the definition of “elected representative” in subsection (1), where a member of the House of Commons’s seat becomes vacant as a result of a successful recall petition, that person is to be treated as if they were a member of the House of Commons until the end of the day on which the resulting by-election is held or, if earlier, the day on which the next general election in relation to Parliament is held.”

Member's explanatory statement

This amendment extends the period for which a member of the House of Commons who is the subject of a successful recall petition continues to be treated as an “elected representative” for the purposes of clause 87 (exceptions from direct marketing provisions under the PEC Regulations).

Secretary Michelle Donelan

Gov 265

★ Clause 88, page 113, line 33, leave out subsection (5)

Member's explanatory statement

This amendment removes the extension of the period for which former elected members of the Common Council of the City of London are treated as continuing to be “elected representatives” for the purposes of clause 87 (exceptions from direct marketing provisions under the PEC Regulations) following the annual Wardmotes.

Sir Chris Bryant

7

Clause 89, page 114, line 12, at end insert—

“(2A) A provider of a public electronic communications service or network is not required to intercept or examine the content of any communication in order to comply with their duty under this regulation.”

Member's explanatory statement

This amendment would clarify that a public electronic communications service or network is not required to intercept or examine the content of any communication in order to comply with their duty to notify the Commissioner of unlawful direct marketing.

Sir Chris Bryant

8

Clause 89, page 117, line 3, at end insert—

“(5) In regulation 1—

- (a) at the start, insert “(1)”;
- (b) after “shall”, insert “save for regulation 26A”;
- (c) at end, insert—

“(2) Regulation 26A comes into force six months after the Commissioner has published guidance under regulation 26C (Guidance in relation to regulation 26A).”

Member's explanatory statement

This amendment would provide for the new regulation 26A, Duty to notify Commissioner of unlawful direct marketing, not to come into force until six months after the Commissioner has published guidance in relation to that duty.

Secretary Michelle Donelan

Gov 197

Clause 98, page 125, line 14, leave out “the law in Scotland and” and insert “part of the law of Scotland or”

Member's explanatory statement

This amendment makes a minor change, replacing a reference to section 35 of the Digital Economy Act 2017 forming the law in Scotland and Northern Ireland with a reference to that section forming part of the law of Scotland or Northern Ireland.

Mr Marcus Fysh

251

★ Clause 101, page 127, line 3, leave out “and deaths” and insert “, deaths and deed polls”

Member's explanatory statement

This amendment would require deed poll information to be kept to the same standard as records of births and deaths.

Sir Chris Bryant

9

Clause 101, page 127, line 24, at end insert—

“(2A) After section 25, insert—

“25A Review of form in which registers are to be kept

- (1) The Secretary of State must commission a review of the provisions of this Act and of related legislation, with a view to the creation of a single digital register of births and deaths.

- (2) The review must consider and make recommendations on the effect of the creation of a single digital register on—
 - (a) fraud,
 - (b) data collection, and
 - (c) ease of registration.
- (3) The Secretary of State must lay a report of the review before each House of Parliament within six months of this section coming into force.””

Member's explanatory statement

This amendment would insert a new section into the Births and Deaths Registration Act 1953 requiring a review of relevant legislation, with consideration of creating a single digital register for registered births and registered deaths and recommendations on the effects of such a change on reducing fraud, improving data collection and streamlining digital registration.

Secretary Michelle Donelan

Gov 198

Clause 109, page 131, line 37, leave out “retained direct EU” and insert “assimilated direct”

Member's explanatory statement

This amendment replaces a reference to “retained direct EU legislation” in a definition of “enactment” with a reference to “assimilated direct legislation”, reflecting changes made by section 5 of the Retained EU Law (Revocation and Reform) Act 2023.

Carol Monaghan

229

Patrick Grady

☆ Clause 112, page 135, line 8, leave out subsections (2) and (3)

Sir Chris Bryant

10

Clause 113, page 136, line 35, leave out “which allows or confirms the unique identification of that individual”

Member's explanatory statement

This amendment would amend the definition of “biometric data” for the purpose of the oversight of law enforcement biometrics databases so as to extend the protections currently in place for biometric data for identification to include biometric data for the purpose of classification.

Secretary Michelle Donelan

Gov 199

Clause 114, page 137, line 29, leave out paragraph (e)

Member's explanatory statement

See the explanatory statement for Amendment 187.

Secretary Michelle Donelan

Gov 200

Clause 118, page 138, line 35, at end insert—

- “(aa) section (*National Underground Asset Register*) and Schedule (*National Underground Asset Register: monetary penalties*) (National Underground Asset Register);
- (ab) sections (*Pre-commencement consultation*) and (*Transfer of certain functions to Secretary of State*) (other provisions in connection with National Underground Asset Register);”

Member's explanatory statement

This amendment amends clause 118 of the Bill (extent) to provide that the new clauses inserted by amendments NC39, NC41 and NC42 and the new Schedule inserted by amendment NS2 extend to England and Wales only.

Secretary Michelle Donelan

Gov 201

Clause 119, page 139, line 7, at end insert—

- “(za) section (*Searches in response to data subjects' requests*) (searches in response to data subjects' requests);”

Member's explanatory statement

This amendment provides for new clause NC7 to come into force on Royal Assent.

Secretary Michelle Donelan

Gov 202

Clause 119, page 139, line 9, at end insert—

- “(ba) section (*Retention of biometric data and recordable offences*) (retention of biometric data and recordable offences);”

Member's explanatory statement

This amendment provides for new clause NC36 to come into force on Royal Assent.

Secretary Michelle Donelan

Gov 203

Clause 119, page 139, line 9, at end insert—

- “(bb) section (*Retention of pseudonymised biometric data*) (retention of pseudonymised biometric data);”

Member's explanatory statement

This amendment provides for new clause NC37 to come into force on Royal Assent.

Secretary Michelle Donelan

Gov 204

Clause 119, page 139, line 9, at end insert—

“(bc) section (*Retention of biometric data from INTERPOL*) (retention of biometric data from INTERPOL);”

Member's explanatory statement

This amendment provides for new clause NC38 to come into force on Royal Assent.

Secretary Michelle Donelan

Gov 205

Clause 119, page 139, line 11, after “Act” insert “(including provision modifying other legislation)”

Member's explanatory statement

This amendment makes clear that the provisions brought into force by clause 119(2)(d) on the day on which the Bill is passed (regulation-making powers and associated provisions) include provisions inserted into other legislation by the Bill.

Secretary Michelle Donelan

Gov 206

Clause 119, page 139, line 19, at end insert—

“(ca) section (*Notices from the Information Commissioner*) (notices from the Information Commissioner);”

Member's explanatory statement

This amendment provides for new clause NC8 to come into force 2 months after Royal Assent.

Secretary Michelle Donelan

Gov 207

Clause 119, page 139, line 20, at end insert—

“(da) section (*Power to require information for social security purposes*) and Schedule (*Power to require information for social security purposes*) (power to require information for social security purposes);”.

Member's explanatory statement

This amendment provides for new clause NC34 and new Schedule NS1 to come into force two months after Royal Assent.

Secretary Michelle Donelan

Gov NS1

To move the following Schedule—

“SCHEDULE Section (*Power to require information
for social security purposes*)

POWER TO REQUIRE INFORMATION FOR SOCIAL SECURITY PURPOSES

PART 1

SOCIAL SECURITY ADMINISTRATION ACT 1992

- 1 The Social Security Administration Act 1992 is amended as follows.
- 2 In section 109B (power to require information), after subsection (6) insert—
“(6A) Nothing in this section limits the powers conferred on the Secretary of State by Schedule 3B.”
- 3 In section 111 (delay, obstruction etc of inspector), in subsection (1)(b), after “otherwise than” insert “under Schedule 3B or”.
- 4 In Part 7 (information), before section 121E (and the italic heading before it) insert—

“Account information

121DB Power to require account information

Schedule 3B makes provision about a power for the Secretary of State to obtain account information.”

- 5 In section 190 (Parliamentary control of orders and regulations), in subsection (1), omit the “or” after paragraph (ab) and after paragraph (b) insert “, or
(c) regulations under paragraph 1(1), 9(3)(a) or 12 of Schedule 3B,”.
- 6 After Schedule 3A insert—

“SCHEDULE 3B

Section 121DB

POWER OF SECRETARY OF STATE TO REQUIRE ACCOUNT INFORMATION

PART 1

POWER TO REQUIRE ACCOUNT INFORMATION

Power to give account information notices

- 1 (1) The Secretary of State may give an account information notice to a person of a prescribed description requiring the person to provide information as set out in paragraph 2 in connection with accounts that the person administers or to which the person has access.

- (2) The power may be exercised only for the purpose of assisting the Secretary of State in identifying cases which merit further consideration to establish whether relevant benefits are being paid or have been paid in accordance with the enactments and rules of law relating to those benefits.

Account information notices

- 2 (1) An account information notice is a notice requiring a person to give the Secretary of State—
 - (a) the names of the holders of accounts that the person identifies as being matching accounts in relation to a specified relevant benefit,
 - (b) other specified information relating to the holders of those accounts, and
 - (c) such further information in connection with those accounts as may be specified.
- (2) An account information notice—
 - (a) may require information relating to a person who holds a matching account even if the person does not claim a relevant benefit;
 - (b) may not require information relating to any person who does not hold a matching account.
- (3) “Matching accounts”, in relation to a specified relevant benefit, are accounts—
 - (a) linked to the receipt of that benefit, and
 - (b) in relation to which specified criteria relevant to that benefit, or specified criteria including such criteria, are met (for example, criteria about account balances or transactions outside the United Kingdom).
- (4) Depending on the provision made by an account information notice, an account linked to the receipt of a relevant benefit may be a matching account if specified criteria are met in relation to a combination of accounts that includes that account.
- (5) An account is to be regarded as linked to the receipt of a particular relevant benefit if it is—
 - (a) an account into which the benefit is (or is to be) paid,
 - (b) an account into which the benefit has been paid, or
 - (c) an account linked to an account within paragraph (a) or (b).
- (6) An account is to be regarded as linked to another if the same person holds both accounts.
- (7) An account information notice may not be framed in such a way as to require a person to interrogate historic data.

- (8) Data is historic, in relation to a day when a person carries out a process to identify matching accounts, if it relates to a time before the beginning of the period of one year ending with that day.
- (9) Information provided to the Secretary of State on a particular day in response to an account information notice must relate to accounts identified by means of a process carried out no more than seven days before that day.
- (10) In this paragraph and paragraph 3 “specified” means—
 - (a) in the case of a relevant benefit, specified or denoted by a code in an account information notice;
 - (b) in every other case, specified or described in an account information notice.

Further provision about account information notices

- 3 (1) An account information notice may require the provision of documents, including the provision of a legible and intelligible copy of information recorded otherwise than in a legible form, and references in this Schedule to the provision of information are to be read accordingly.
- (2) An account information notice may require information to be provided at specified intervals for a period not exceeding one year from the date of the notice.
- (3) An account information notice other than one within sub-paragraph (2) must state the date by which or the period within which the information must be provided.
- (4) An account information notice must give details about—
 - (a) rights of appeal, and
 - (b) the consequences of not complying with the notice.
- (5) An account information notice may require information—
 - (a) to be compiled or collated in a specified manner;
 - (b) to be provided in a specified way (including by electronic transmission to a specified address or portal).
- (6) The Secretary of State may vary or cancel an account information notice by notice to the person to whom it was given.

Restrictions on processing and data protection

- 4 (1) Except as provided by sub-paragraph (2), processing of information carried out in compliance with an account information notice does not breach—
 - (a) any obligation of confidence owed by the person processing the information, or
 - (b) any other restriction on the processing of information (however imposed).

- (2) The power conferred by paragraph 1 does not authorise, and is not exercisable to require—
 - (a) processing of personal data that would contravene the data protection legislation (but in determining whether processing of personal data would do so, that power is to be taken into account);
 - (b) processing of information that is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.

Use of information

- 5 (1) Information provided to the Secretary of State in response to an account information notice may be used by the Secretary of State only for the purposes of, or for any purposes connected with, the exercise of departmental functions.
- (2) “Departmental functions” has the same meaning as in section 127 of the Welfare Reform Act 2012.

PART 2

CODE OF PRACTICE

Code of practice

- 6 (1) The Secretary of State may issue a code of practice in connection with account information notices.
- (2) Such a code may, in particular, include—
 - (a) provision about considerations relevant to—
 - (i) the exercise of powers conferred by Part 1;
 - (ii) the imposition of penalties under Part 3;
 - (b) provision designed to assist persons given account information notices in complying with such notices;
 - (c) provision about complaints in connection with such notices.
- (3) If the Secretary of State decides to issue a code of practice, the Secretary of State must first prepare and publish a draft of the code of practice.
- (4) If the Secretary of State considers it appropriate to proceed after considering any representations made concerning the draft and making any changes that the Secretary of State considers appropriate, the Secretary of State must—
 - (a) issue the code of practice, and
 - (b) lay it before Parliament.
- (5) The code of practice comes into force on the day on which it is issued.

Code of practice: revisions

- 7 (1) The Secretary of State may from time to time revise and re-issue the code of practice.
- (2) Sub-paragraphs (3) to (5) of paragraph 6 apply in relation to a re-issue of the code of practice as they apply in relation to the first code of practice.
- (3) But sub-paragraphs (3) and (4) of paragraph 6 do not apply if the only changes to be made to the code of practice are—
 - (a) updates of references to legislation or documents which have become out of date, or
 - (b) other minor corrections.
- (4) The Secretary of State may withdraw a code of practice.

Code of practice: further provision

- 8 (1) The Secretary of State must have regard to a code of practice that is for the time being in force under this Part in exercising, or deciding whether to exercise, any function to which the code of practice is relevant.
- (2) A person's failure to observe any provision of a code of practice does not of itself make the person liable to any legal proceedings.
- (3) A code of practice is admissible in evidence in any legal proceedings.

PART 3

PENALTIES

Penalties for failure to comply

- 9 (1) If the Secretary of State considers that a person who has been given an account information notice has failed to comply with it, the Secretary of State must give the person an opportunity to make representations about the failure.
- (2) Sub-paragraph (3) applies if, having considered any representations that are made, the Secretary of State has reasonable grounds to believe that the person has failed to comply with the account information notice and had no reasonable excuse for the failure.
- (3) The Secretary of State may give the person—
 - (a) a notice requiring the person to pay a penalty of a prescribed amount (a "fixed penalty");
 - (b) a notice requiring the person to pay a penalty calculated by reference to a daily rate (a "daily rate penalty");
 - (c) a notice requiring the person to pay a fixed penalty and a daily rate penalty.
- (4) A notice under sub-paragraph (3) is referred to in this Schedule as a penalty notice.

- (5) A penalty notice imposing a fixed penalty must state—
 - (a) the amount of the penalty, and
 - (b) the period within which it must be paid.
- (6) A penalty notice imposing a daily rate penalty must—
 - (a) state the daily rate of the penalty,
 - (b) state the date from which the penalty will begin to be payable, which must not be earlier than the day after the last date on which an appeal against the penalty may be brought under paragraph 14, and
 - (c) state that the penalty will continue to be payable at the daily rate until the date on which the person complies with the account information notice or such earlier date as may be specified.
- (7) A penalty notice must also include information as to—
 - (a) the failure to which the penalty relates,
 - (b) how payment may be made,
 - (c) rights of appeal, and
 - (d) the consequences of non-payment (including, in the case of a daily rate penalty, the potential for the penalty to be increased as described in paragraph 10).
- (8) The Secretary of State may vary or cancel a penalty notice by notice to the person to whom it was given.
- (9) The maximum amount of a fixed penalty that may be prescribed is £1,000.
- (10) Subject to paragraph 10, the daily rate of a daily rate penalty is to be such rate as the Secretary of State considers appropriate but it must not exceed £40.

Increased daily rate penalties

- 10 (1) This paragraph applies if—
 - (a) a daily rate penalty is imposed on a person by a penalty notice, and
 - (b) the failure to which the penalty relates continues for more than 30 days beginning with the first date on which the daily rate penalty is payable.
- (2) The Secretary of State may make an application to the Tribunal for an increased daily rate penalty to be payable by the person.
- (3) The Tribunal may determine that an increased daily rate penalty should be payable, and in that case, must determine the increased daily rate and the date from which the increased penalty will begin to be payable.
- (4) In deciding the increased daily rate, the Tribunal must, in particular, have regard to—

- (a) the likely cost to the person of not complying with the account information notice,
 - (b) any benefits to the person of not complying with it, and
 - (c) any benefits to anyone else resulting from the person's non-compliance.
- (5) The Tribunal may not determine a daily rate that exceeds £1,000.
- (6) The Secretary of State must notify the person of the Tribunal's determination.

Recovery of penalties

- 11 (1) In England and Wales, a penalty is recoverable—
- (a) if the county court so orders, as if it were payable under an order of that court;
 - (b) if the High Court so orders, as if it were payable under an order of that court.
- (2) In Scotland, a penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (3) In this paragraph "penalty" means a penalty imposed by a penalty notice.

Power to change maximum amount of penalties

- 12 Regulations may amend the amount for the time being specified in paragraph 9(9) or (10) or 10(5) to reflect a change in the value of money.

PART 4

APPEALS

Appeals against account information notices

- 13 (1) A person who is given an account information notice may appeal to the Tribunal against the notice, or any requirement of it, on any of the following grounds—
- (a) the person is not a person to whom a notice may be given,
 - (b) a requirement of the notice is inconsistent with provision made by paragraph 2, or
 - (c) it is unduly onerous to comply with the notice or requirement.
- (2) Notice of an appeal under sub-paragraph (1) must be given before the end of the period of 30 days beginning with the date on which the account information notice was given.
- (3) On an appeal under sub-paragraph (1), the Tribunal may confirm, vary or quash the account information notice or a requirement of

it, including by varying the period within which, or the frequency with which, information is to be provided.

- (4) If an appeal is brought against an account information notice or any requirement of it, the notice or requirement (as the case may be) is of no effect until the appeal is determined or withdrawn, unless the Tribunal orders otherwise.

Appeals against penalty notices

- 14 (1) A person who is given a penalty notice may appeal to the Tribunal against—
 - (a) the notice,
 - (b) the amount of the penalty, or
 - (c) in the case of a daily rate penalty, the period during which the daily amounts are payable.
- (2) But sub-paragraph (1)(b) does not give a right of appeal against the amount of an increased daily rate penalty determined by the Tribunal under paragraph 10.
- (3) Notice of an appeal under sub-paragraph (1) must be given before the end of the period of 30 days beginning with the date on which the penalty notice was given.
- (4) On an appeal under sub-paragraph (1), the Tribunal may—
 - (a) confirm or quash the decision to impose the penalty,
 - (b) confirm or vary the amount of the penalty,
 - (c) confirm or vary the period within which all or part of the penalty is to be paid.
- (5) If an appeal is brought under sub-paragraph (1), the penalty which is the subject of the appeal is not payable until the appeal is determined or withdrawn.

Appeals: further provision

- 15 (1) If the Tribunal confirms or varies an account information notice or a penalty notice on an appeal under this Part, the person to whom the notice was given must comply with the notice—
 - (a) within such period as may be specified by the Tribunal, or
 - (b) if the Tribunal does not specify a period, within such period as may be specified by the Secretary of State and notified to the person.
- (2) A decision by the Tribunal on an appeal under this Part is final (despite the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007).

PART 5

GENERAL PROVISION AND INTERPRETATION

Relevant benefits

- 16 In this Schedule “relevant benefit” means any of the following—
- (a) a relevant social security benefit as defined in section 121DA(7);
 - (b) a child tax credit or working tax credit under the Tax Credits Act 2002;
 - (c) a payment, as mentioned in subsection (2)(d) of section 2 of the Employment and Training Act 1973, under arrangements made under that section.

Accounts

- 17 In this Schedule any reference to a person who holds an account includes a reference to—
- (a) a person who holds an account jointly with one or more other persons, and
 - (b) a person who is a signatory, or one of the signatories, to an account,
- and “holder” is to be construed accordingly.

General interpretation

- 18 In this Schedule—
- “account” includes a financial product;
 - “account information notice” has the meaning given in paragraph 2;
 - “benefit” includes any allowance, payment, credit or loan;
 - “cryptoasset” means a cryptographically secured digital representation of value or contractual rights that—
 - (a) can be transferred, stored or traded electronically, and
 - (b) uses technology supporting the recording or storage of data (which may include distributed ledger technology);
 - “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act);
 - “document” means anything in which information (in whatever form) is recorded;
 - “financial product” includes a cryptoasset;
 - “notice” means notice in writing, and “notify” is to be read accordingly;
 - “penalty notice” is defined in paragraph 9(4);

“personal data” has the same meaning as in the Data Protection Act 2018 (see section 3(2) of that Act);

“processing” has the same meaning as in that Act (see section 3(4) of that Act);

“the Tribunal” means the First-tier Tribunal.

Relationship with other powers

- 19 Nothing in this Schedule limits the powers conferred on the Secretary of State by section 109B (power to require information).”

PART 2

SOCIAL SECURITY ADMINISTRATION (NORTHERN IRELAND) ACT 1992

- 7 The Social Security Administration (Northern Ireland) Act 1992 is amended as follows.
- 8 In section 103B (power to require information), after subsection (6) insert—
- “(6A) Nothing in this section limits the powers conferred on the Department by Schedule 3B.”
- 9 In section 105 (delay, obstruction etc of inspector), in subsection (1)(b), after “otherwise than” insert “under Schedule 3B or”.
- 10 In Part 7 (information), before section 115D (and the italic heading before it) insert—

“Account information

115CB Power to require account information

Schedule 3B makes provision about a power for the Department to obtain account information.”

- 11 In section 166 (Assembly, etc. control of orders and regulations), after subsection (2)(b) insert—
- “(c) to any regulations under paragraph 1(1), 9(3)(a) or 12 of Schedule 3B.”
- 12 After Schedule 3A insert—

“SCHEDULE 3B

Section 115CB

POWER OF DEPARTMENT TO REQUIRE ACCOUNT INFORMATION

PART 1

POWER TO REQUIRE ACCOUNT INFORMATION

Power to give account information notices

- 1 (1) The Department may give an account information notice to a person of a prescribed description requiring the person to provide

information as set out in paragraph 2 in connection with accounts that the person administers or to which the person has access.

- (2) The power may be exercised only for the purpose of assisting the Department in identifying cases which merit further consideration to establish whether relevant benefits are being paid or have been paid in accordance with the statutory provisions and rules of law relating to those benefits.

Account information notices

- 2 (1) An account information notice is a notice requiring a person to give the Department—
 - (a) the names of the holders of accounts that the person identifies as being matching accounts in relation to a specified relevant benefit,
 - (b) other specified information relating to the holders of those accounts, and
 - (c) such further information in connection with those accounts as may be specified.
- (2) An account information notice—
 - (a) may require information relating to a person who holds a matching account even if the person does not claim a relevant benefit;
 - (b) may not require information relating to any person who does not hold a matching account.
- (3) “Matching accounts”, in relation to a specified relevant benefit, are accounts—
 - (a) linked to the receipt of that benefit, and
 - (b) in relation to which specified criteria relevant to that benefit, or specified criteria including such criteria, are met (for example, criteria about account balances or transactions outside the United Kingdom).
- (4) Depending on the provision made by an account information notice, an account linked to the receipt of a relevant benefit may be a matching account if specified criteria are met in relation to a combination of accounts that includes that account.
- (5) An account is to be regarded as linked to the receipt of a particular relevant benefit if it is—
 - (a) an account into which the benefit is (or is to be) paid,
 - (b) an account into which the benefit has been paid, or
 - (c) an account linked to an account within paragraph (a) or (b).
- (6) An account is to be regarded as linked to another if the same person holds both accounts.
- (7) An account information notice may not be framed in such a way as to require a person to interrogate historic data.

- (8) Data is historic, in relation to a day when a person carries out a process to identify matching accounts, if it relates to a time before the beginning of the period of one year ending with that day.
- (9) Information provided to the Department on a particular day in response to an account information notice must relate to accounts identified by means of a process carried out no more than seven days before that day.
- (10) In this paragraph and paragraph 3 “specified” means—
 - (a) in the case of a relevant benefit, specified or denoted by a code in an account information notice;
 - (b) in every other case, specified or described in an account information notice.

Further provision about account information notices

- 3 (1) An account information notice may require the provision of documents, including the provision of a legible and intelligible copy of information recorded otherwise than in a legible form, and references in this Schedule to the provision of information are to be read accordingly.
- (2) An account information notice may require information to be provided at specified intervals for a period not exceeding one year from the date of the notice.
- (3) An account information notice other than one within sub-paragraph (2) must state the date by which or the period within which the information must be provided.
- (4) An account information notice must give details about—
 - (a) rights of appeal, and
 - (b) the consequences of not complying with the notice.
- (5) An account information notice may require information—
 - (a) to be compiled or collated in a specified manner;
 - (b) to be provided in a specified way (including by electronic transmission to a specified address or portal).
- (6) The Department may vary or cancel an account information notice by notice to the person to whom it was given.

Restrictions on processing and data protection

- 4 (1) Except as provided by sub-paragraph (2), processing of information carried out in compliance with an account information notice does not breach—
 - (a) any obligation of confidence owed by the person processing the information, or
 - (b) any other restriction on the processing of information (however imposed).

- (2) The power conferred by paragraph 1 does not authorise, and is not exercisable to require—
 - (a) processing of personal data that would contravene the data protection legislation (but in determining whether processing of personal data would do so, that power is to be taken into account);
 - (b) processing of information that is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.

Use of information

- 5 (1) Information provided to the Department in response to an account information notice may be used by the Department only for the purposes of, or for any purposes connected with, the exercise of departmental functions.
- (2) “Departmental functions” has the same meaning as in section 127 of the Welfare Reform Act 2012.

PART 2

CODE OF PRACTICE

Code of practice

- 6 (1) The Department may issue a code of practice in connection with account information notices.
- (2) Such a code may, in particular, include—
 - (a) provision about considerations relevant to—
 - (i) the exercise of powers conferred by Part 1;
 - (ii) the imposition of penalties under Part 3;
 - (b) provision designed to assist persons given account information notices in complying with such notices;
 - (c) provision about complaints in connection with such notices.
- (3) If the Department decides to issue a code of practice, the Department must first prepare and publish a draft of the code of practice.
- (4) If the Department considers it appropriate to proceed after considering any representations made concerning the draft and making any changes that the Department considers appropriate, the Department must—
 - (a) issue the code of practice, and
 - (b) lay it before the Assembly.
- (5) The code of practice comes into force on the day on which it is issued.

Code of practice: revisions

- 7 (1) The Department may from time to time revise and re-issue the code of practice.
- (2) Sub-paragraphs (3) to (5) of paragraph 6 apply in relation to a re-issue of the code of practice as they apply in relation to the first code of practice.
- (3) But sub-paragraphs (3) and (4) of paragraph 6 do not apply if the only changes to be made to the code of practice are—
- (a) updates of references to legislation or documents which have become out of date, or
 - (b) other minor corrections.
- (4) The Department may withdraw a code of practice.

Code of practice: further provision

- 8 (1) The Department must have regard to a code of practice that is for the time being in force under this Part in exercising, or deciding whether to exercise, any function to which the code of practice is relevant.
- (2) A person's failure to observe any provision of a code of practice does not of itself make the person liable to any legal proceedings.
- (3) A code of practice is admissible in evidence in any legal proceedings.

PART 3**PENALTIES***Penalties for failure to comply*

- 9 (1) If the Department considers that a person who has been given an account information notice has failed to comply with it, the Department must give the person an opportunity to make representations about the failure.
- (2) Sub-paragraph (3) applies if, having considered any representations that are made, the Department has reasonable grounds to believe that the person has failed to comply with the account information notice and had no reasonable excuse for the failure.
- (3) The Department may give the person—
- (a) a notice requiring the person to pay a penalty of a prescribed amount (a "fixed penalty");
 - (b) a notice requiring the person to pay a penalty calculated by reference to a daily rate (a "daily rate penalty");
 - (c) a notice requiring the person to pay a fixed penalty and a daily rate penalty.
- (4) A notice under sub-paragraph (3) is referred to in this Schedule as a penalty notice.

- (5) A penalty notice imposing a fixed penalty must state—
 - (a) the amount of the penalty, and
 - (b) the period within which it must be paid.
- (6) A penalty notice imposing a daily rate penalty must—
 - (a) state the daily rate of the penalty,
 - (b) state the date from which the penalty will begin to be payable, which must not be earlier than the day after the last date on which an appeal against the penalty may be brought under paragraph 14, and
 - (c) state that the penalty will continue to be payable at the daily rate until the date on which the person complies with the account information notice or such earlier date as may be specified.
- (7) A penalty notice must also include information as to—
 - (a) the failure to which the penalty relates,
 - (b) how payment may be made,
 - (c) rights of appeal, and
 - (d) the consequences of non-payment (including, in the case of a daily rate penalty, the potential for the penalty to be increased as described in paragraph 10).
- (8) The Department may vary or cancel a penalty notice by notice to the person to whom it was given.
- (9) The maximum amount of a fixed penalty that may be prescribed is £1,000.
- (10) Subject to paragraph 10, the daily rate of a daily rate penalty is to be such rate as the Department considers appropriate but it must not exceed £40.

Increased daily rate penalties

- 10 (1) This paragraph applies if—
 - (a) a daily rate penalty is imposed on a person by a penalty notice, and
 - (b) the failure to which the penalty relates continues for more than 30 days beginning with the first date on which the daily rate penalty is payable.
- (2) The Department may make an application to the Tribunal for an increased daily rate penalty to be payable by the person.
- (3) The Tribunal may determine that an increased daily rate penalty should be payable, and in that case, must determine the increased daily rate and the date from which the increased penalty will begin to be payable.
- (4) In deciding the increased daily rate, the Tribunal must, in particular, have regard to—

- (a) the likely cost to the person of not complying with the account information notice,
 - (b) any benefits to the person of not complying with it, and
 - (c) any benefits to anyone else resulting from the person's non-compliance.
- (5) The Tribunal may not determine a daily rate that exceeds £1,000.
- (6) The Department must notify the person of the Tribunal's determination.

Recovery of penalties

- 11 A penalty imposed by a penalty notice is recoverable—
- (a) if a county court so orders, as if it were payable under an order of that court;
 - (b) if the High Court so orders, as if it were payable under an order of that Court.

Power to change maximum amount of penalties

- 12 Regulations may amend the amount for the time being specified in paragraph 9(9) or (10) or 10(5) to reflect a change in the value of money.

PART 4

APPEALS

Appeals against account information notices

- 13 (1) A person who is given an account information notice may appeal to the Tribunal against the notice, or any requirement of it, on any of the following grounds—
- (a) the person is not a person to whom the notice may be given,
 - (b) a requirement of the notice is inconsistent with provision made by paragraph 2, or
 - (c) it is unduly onerous to comply with the notice or requirement.
- (2) Notice of an appeal under sub-paragraph (1) must be given before the end of the period of 30 days beginning with the date on which the account information notice was given.
- (3) On an appeal under sub-paragraph (1), the Tribunal may confirm, vary or quash the account information notice or a requirement of it, including by varying the period within which, or the frequency with which, information is to be provided.
- (4) If an appeal is brought against an account information notice or any requirement of it, the notice or requirement (as the case may be) is of no effect until the appeal is determined or withdrawn, unless the Tribunal orders otherwise.

Appeals against penalty notices

- 14 (1) A person who is given a penalty notice may appeal to the Tribunal against—
- (a) the notice,
 - (b) the amount of the penalty, or
 - (c) in the case of a daily rate penalty, the period during which the daily amounts are payable.
- (2) But sub-paragraph (1)(b) does not give a right of appeal against the amount of an increased daily rate penalty determined by the Tribunal under paragraph 10.
- (3) Notice of an appeal under sub-paragraph (1) must be given before the end of the period of 30 days beginning with the date on which the penalty notice was given.
- (4) On an appeal under sub-paragraph (1), the Tribunal may—
- (a) confirm or quash the decision to impose the penalty,
 - (b) confirm or vary the amount of the penalty,
 - (c) confirm or vary the period within which all or part of the penalty is to be paid.
- (5) If an appeal is brought under sub-paragraph (1), the penalty which is the subject of the appeal is not payable until the appeal is determined or withdrawn.

Appeals: further provision

- 15 (1) If the Tribunal confirms or varies an account information notice or a penalty notice on an appeal under this Part, the person to whom the notice was given must comply with the notice—
- (a) within such period as may be specified by the Tribunal, or
 - (b) if the Tribunal does not specify a period, within such period as may be specified by the Department and notified to the person.
- (2) A decision by the Tribunal on an appeal under this Part is final (despite the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007).

PART 5

GENERAL PROVISION AND INTERPRETATION

Relevant benefits

- 16 In this Schedule “relevant benefit” means any of the following—
- (a) a relevant social security benefit as defined in section 115CA(7);

- (b) a child tax credit or working tax credit under the Tax Credits Act 2002;
- (c) a payment, as mentioned in subsection (1A)(d) of section 1 of the Employment and Training Act (Northern Ireland) 1950, under arrangements made under that section.

Accounts

- 17 In this Schedule any reference to a person who holds an account includes a reference to—
- (a) a person who holds an account jointly with one or more other persons, and
 - (b) a person who is a signatory, or one of the signatories, to an account,
- and “holder” is to be construed accordingly.

General interpretation

- 18 In this Schedule—
- “account” includes a financial product;
 - “account information notice” has the meaning given in paragraph 2;
 - “benefit” includes any allowance, payment, credit or loan;
 - “cryptoasset” means a cryptographically secured digital representation of value or contractual rights that—
 - (a) can be transferred, stored or traded electronically, and
 - (b) uses technology supporting the recording or storage of data (which may include distributed ledger technology);
 - “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act);
 - “document” means anything in which information (in whatever form) is recorded;
 - “financial product” includes a cryptoasset;
 - “notice” means notice in writing, and “notify” is to be read accordingly;
 - “penalty notice” is defined in paragraph 9(4);
 - “personal data” has the same meaning as in the Data Protection Act 2018 (see section 3(2) of that Act);
 - “processing” has the same meaning as in that Act (see section 3(4) of that Act);
 - “the Tribunal” means the First-tier Tribunal.

Relationship with other powers

- 19 Nothing in this Schedule limits the powers conferred on the Department by section 103B (power to require information).”

PART 3

PROCEEDS OF CRIME ACT 2002

- 13 (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) In section 330 (failure to disclose: regulated sector), after subsection (7D) insert—
- “(7E) Nor does a person commit an offence under this section if—
- (a) the information or other matter mentioned in subsection (3) consists of or includes information that was obtained only in consequence of the carrying out of a process to identify matching accounts in response to an account information notice given to the person under paragraph 1 of Schedule 3B to the Social Security Administration Act 1992 or paragraph 1 of Schedule 3B to the Social Security Administration (Northern Ireland) Act 1992, and
 - (b) but for the information so obtained the person would not have reasonable grounds for knowing or suspecting that another person is engaged in money laundering.”
- (3) In section 331 (failure to disclose: nominated officers in the regulated sector), after subsection (6B) insert—
- “(6C) Nor does a person commit an offence under this section if—
- (a) the information or other matter disclosed to the person under section 330 consists of or includes information that was obtained only in consequence of the carrying out of a process to identify matching accounts in response to an account information notice given to the person under paragraph 1 of Schedule 3B to the Social Security Administration Act 1992 or paragraph 1 of Schedule 3B to the Social Security Administration (Northern Ireland) Act 1992, and
 - (b) but for the information so obtained the person would not have reasonable grounds for knowing or suspecting that another person is engaged in money laundering.””

Member's explanatory statement

This new Schedule amends social security legislation to give the Secretary of State or, in Northern Ireland, the Department for Communities, a new power to give an information notice to certain bodies (to be specified in regulations) that administer accounts, requiring them to provide information about accounts in receipt of social security benefits (etc) which match criteria set out in the notice.

Secretary Michelle Donelan

Gov NS2

To move the following Schedule—

“SCHEDULE

NATIONAL UNDERGROUND ASSET REGISTER: MONETARY PENALTIES

In the New Roads and Street Works Act 1991, after Schedule 5 insert—

“SCHEDULE 5A

Section 106E

MONETARY PENALTIES IN RELATION TO REQUIREMENTS UNDER PART 3A

Power to impose monetary penalties

- 1 (1) The Secretary of State may give a notice (a “penalty notice”) imposing a penalty on a person if satisfied on the balance of probabilities that the person—
 - (a) has failed to comply with a requirement imposed on the person to—
 - (i) pay a fee in accordance with regulations under section 106C(1), or
 - (ii) provide information in accordance with regulations under section 106D(1) or (2), or
 - (b) has, in purported compliance with a requirement imposed on the person under regulations under section 106D(1) or (2), provided information that is false or misleading in a material respect.
- (2) The amount of a penalty imposed by a penalty notice must be such amount as is specified in, or determined in accordance with, regulations made by the Secretary of State.
- (3) A penalty imposed by a penalty notice must be paid to the Secretary of State within such period as may be specified in the notice.
- (4) The Secretary of State may not give more than one penalty notice to a person in respect of the same failure or conduct.
- (5) Regulations under this paragraph are subject to the affirmative procedure.

Warning notices

- 2 (1) Where the Secretary of State proposes to give a penalty notice to a person the Secretary of State must give the person a notice (a “warning notice”) notifying the person of the Secretary of State’s proposal.
- (2) A warning notice must—
 - (a) state the name and address of the person to whom the Secretary of State proposes to give a penalty notice;
 - (b) give reasons why the Secretary of State proposes to give the person a penalty notice;
 - (c) state the amount of the proposed penalty;

- (d) specify the date before which the person may make written representations to the Secretary of State.
- (3) The date specified under sub-paragraph (2)(d) must be a date falling at least 28 days after the day on which the warning notice is given.

Penalty notices

- 3 (1) Within the period of six months beginning with the day on which a warning notice is given to a person the Secretary of State must give to the person—
 - (a) a notice stating that the Secretary of State has decided not to give a penalty notice to the person, or
 - (b) a penalty notice.
- (2) But the Secretary of State may not give a penalty notice to a person before the end of the period specified in the warning notice for making written representations.
- (3) A penalty notice given to a person must—
 - (a) state the name and address of the person;
 - (b) give details of the warning notice given to the person;
 - (c) state whether or not the Secretary of State has received written representations in accordance with that notice;
 - (d) give reasons for the Secretary of State's decision to impose a penalty on the person;
 - (e) state the amount of the penalty;
 - (f) give details of how the penalty may be paid;
 - (g) specify the date before which the penalty must be paid;
 - (h) give details about the person's rights of appeal;
 - (i) give details about the consequences of non-payment.
- (4) The date specified under sub-paragraph (3)(g) must be a date falling at least 28 days after the day on which the penalty notice is given.
- (5) The Secretary of State may cancel a penalty notice by giving a notice to that effect to the person to whom the penalty notice is given.
- (6) If a penalty notice is cancelled the Secretary of State—
 - (a) may not give a further penalty notice in relation to the failure or conduct to which the notice relates, and
 - (b) must repay any amount that has been paid in accordance with the notice.

Enforcement

- 4 If a person does not pay the whole or any part of a penalty which the person is liable to pay under this Schedule the penalty or part of the penalty is recoverable—
 - (a) if the county court so orders, as if it were payable under an order of that court;
 - (b) if the High Court so orders, as if it were payable under an order of that court.

Appeals

- 5 (1) A person who is given a penalty notice may appeal to the First-tier Tribunal (“the Tribunal”) against the decision to give the notice or any requirement of it.
- (2) An appeal may be on the ground that the decision or requirement—
- (a) is based on an error of fact,
 - (b) is wrong in law, or
 - (c) is unreasonable.
- (3) But an appeal against the amount of a penalty may not be made on the ground mentioned in sub-paragraph (2)(c).
- (4) An appeal under this paragraph must be made before the end of the period of 28 days beginning with the day on which the penalty notice is given.
- (5) On an appeal the Tribunal may—
- (a) confirm or quash the decision to give the penalty notice, or
 - (b) confirm or vary any requirement of it.
- (6) In determining an appeal the Tribunal may—
- (a) review any determination of fact on which the decision or requirement appealed against is based, and
 - (b) take into account evidence which was not available to the Secretary of State when giving the notice.
- (7) Where an appeal in respect of a penalty notice is made under this paragraph the notice is of no effect until the appeal is determined or withdrawn.
- (8) Where an appeal is or may be made to the Upper Tribunal in relation to a decision of the Tribunal under this paragraph, the Upper Tribunal may suspend the notice to which the appeal relates until the appeal is determined or withdrawn.
- (9) If the Tribunal confirms or varies a decision or requirement appealed against under this paragraph, the person to whom the penalty notice is given must comply with the notice or the notice as varied (as the case may be)—
- (a) within such period as may be specified by the Tribunal, or
 - (b) if the Tribunal does not specify a period, within such period as may be specified by the Secretary of State and notified to the person.””

Member's explanatory statement

This amendment inserts a new Schedule 5A into the New Roads and Street Works Act 1991 which makes provision about the imposition of monetary penalties in relation to requirements contained in new Part 3A of that Act (see Amendment NC39).

Mr Marcus Fysh

NS3

★ To move the following Schedule—

“SCHEDULE

Section 49(2B)

IDENTITY ASSURANCE PRINCIPLES

PART 1

DEFINITIONS

- 1 These Principles are limited to the processing of Identity Assurance Data (IdA Data) in an Identity Assurance Service (e.g. establishing and verifying identity of a Service User; conducting a transaction that uses a user identity; maintaining audit requirements in relation a transaction associated with the use of a service that needs identity verification etc.). They do not cover, for example, any data used to deliver a service, or to measure its quality.
- 2 In the context of the application of the Identity Assurance Principles to an Identity Assurance Service, “Identity Assurance Data” (“IdA Data”) means any recorded information that is connected with a “Service User” including—
 - “Audit Data.” This includes any recorded information that is connected with any log or audit associated with an Identity Assurance Service.
 - “General Data.” This means any other recorded information which is not personal data, audit data or relationship data, but is still connected with a “Service User”.
 - “Personal Data.” This takes its meaning from the Data Protection Act 2018 or subsequent legislation (e.g. any recorded information that relates to a “Service User” who is also an identified or identifiable living individual).
 - “Relationship Data.” This means any recorded information that describes (or infers) a relationship between a “Service User”, “Identity Provider” or “Service Provider” with another “Service User”, “Identity Provider” or “Service Provider” and includes any cookie or program whose purpose is to supply a means through which relationship data are collected.
- 3 Other terms used in relation to the Principles are defined as follows—
 - “Identity Assurance Service.” This includes relevant applications of the technology (e.g. hardware, software, database, documentation) in the possession or control of any “Service User”, “Identity Provider” or “Service Provider” that is used to facilitate identity assurance activities; it also includes any IdA Data processed by that technology or by an Identity Provider or by a Service Provider in the context of the Service; and any IdA Data processed by the underlying infrastructure for the purpose of delivering the IdA service or associated billing, management, audit and fraud prevention.
 - “Identity Provider.” This means the certified individual or certified organisation that provides an Identity Assurance Service (e.g. establishing an identity, verification of identity); it includes any agent

of a certified Identity Provider that processes IdA data in connection with that Identity Assurance Service.

“Participant.” This means any “Identity Provider”, “Service Provider” or “Service User” in an Identity Assurance Service. A “Participant” includes any agent by definition.

“Processing.” In the context of IdA data means “collecting, using, disclosing, retaining, transmitting, copying, comparing, corroborating, correlating, aggregating, accessing” the data and includes any other operation performed on IdA data.

“Provider.” Includes both “Identity Provider” and/or “Service Provider”.

“Service Provider.” This means the certified individual or certified organisation that provides a service that uses an Identity Provider in order to verify identity of the Service User; it includes any agent of the Service Provider that processes IdA data from an Identity Assurance Service.

“Service User.” This means the person (i.e. an organisation (incorporated or not)) or an individual (dead or alive) who has established (or is establishing) an identity with an Identity Provider; it includes an agent (e.g. a solicitor, family member) who acts on behalf of a Service User with proper authority (e.g. a public guardian, or a Director of a company, or someone who possesses power of attorney). The person may be living or deceased (the identity may still need to be used once its owner is dead, for example by an executor).

“Third Party.” This means any person (i.e. any organisation or individual) who is not a “Participant” (e.g. the police or a Regulator).

PART 2

THE NINE IDENTITY ASSURANCE PRINCIPLES

Any exemptions from these Principles must be specified via the “Exceptional Circumstances Principle”. (See Principle 9).

1 User Control Principle

Statement of Principle: “I can exercise control over identity assurance activities affecting me and these can only take place if I consent or approve them.”

1.1 An Identity Provider or Service Provider must ensure any collection, use or disclosure of IdA data in, or from, an Identity Assurance Service is approved by each particular Service User who is connected with the IdA data.

1.2 There should be no compulsion to use the Identity Assurance Service and Service Providers should offer alternative mechanisms to access their services. Failing to do so would undermine the consensual nature of the service.

2 Transparency Principle

Statement of Principle: “Identity assurance can only take place in ways I understand and when I am fully informed.”

2.1 Each Identity Provider or Service Provider must be able to justify to Service Users why their IdA data are processed. Ensuring transparency of activity and effective oversight through auditing and other activities inspires public trust and confidence in how their details are used.

2.2 Each Service User must be offered a clear description about the processing of IdA data in advance of any processing. Identity Providers must be transparent with users about their particular models for service provision.

2.3 The information provided includes a clear explanation of why any specific information has to be provided by the Service User (e.g. in order that a particular level of identity assurance can be obtained) and identifies any obligation on the part of the Service User (e.g. in relation to the User's role in securing his/her own identity information).

2.4 The Service User will be able to identify which Service Provider they are using at any given time.

2.5 Any subsequent and significant change to the processing arrangements that have been previously described to a Service User requires the prior consent or approval of that Service User before it comes into effect.

2.6 All procedures, including those involved with security, should be made publicly available at the appropriate time, unless such transparency presents a security or privacy risk. For example, the standards of encryption can be identified without jeopardy to the encryption keys being used.

3 Multiplicity Principle

Statement of Principle: "I can use and choose as many different identifiers or identity providers as I want to."

3.1 A Service User is free to use any number of identifiers that each uniquely identifies the individual or business concerned.

3.2 A Service User can use any of his identities established with an Identity Provider with any Service Provider.

3.3 A Service User shall not be obliged to use any Identity Provider or Service Provider not chosen by that Service User; however, a Service Provider can require the Service User to provide a specific level of Identity Assurance, appropriate to the Service User's request to a Service Provider.

3.4 A Service User can choose any number of Identity Providers and where possible can choose between Service Providers in order to meet his or her diverse needs. Where a Service User chooses to register with more than one Identity Provider, Identity Providers and Service Providers must not link the Service User's different accounts or gain information about their use of other Providers.

3.5 A Service User can terminate, suspend or change Identity Provider and where possible can choose between Service Providers at any time.

3.6 A Service Provider does not know the identity of the Identity Provider used by a Service User to verify an identity in relation to a specific service. The Service Provider knows that the Identity Provider can be trusted because the Identity Provider has been certified, as set out in GPG43 – Requirements for Secure Delivery of Online Public Services (RSDOPS).

4 Data Minimisation Principle

Statement of Principle: “My interactions only use the minimum data necessary to meet my needs.”

4.1 Identity Assurance should only be used where a need has been established and only to the appropriate minimum level of assurance.

4.2 Identity Assurance data processed by an Identity Provider or a Service Provider to facilitate a request of a Service User must be the minimum necessary in order to fulfil that request in a secure and auditable manner.

4.3 When a Service User stops using a particular Identity Provider, their data should be deleted. Data should be retained only where required for specific targeted fraud, security or other criminal investigation purposes.

5 Data Quality Principle

Statement of Principle: “My interactions only use the minimum data necessary to meet my needs.”

5.1 Service Providers should enable Service Users (or authorised persons, such as the holder of a Power of Attorney) to be able to update their own personal data, at a time at their choosing, free of charge and in a simple and easy manner.

5.2 Identity Providers and Service Providers must take account of the appropriate level of identity assurance required before allowing any updating of personal data.

6 Service User Access and Portability Principle

Statement of Principle: “I have to be provided with copies of all of my data on request; I can move/remove my data whenever I want.”

6.1 Each Identity Provider or Service Provider must allow, promptly, on request and free of charge, each Service User access to any IdA data that relates to that Service User.

6.2 It shall be unlawful to make it a condition of doing anything in relation to a Service User to request or require that Service User to request IdA data.

6.3 The Service User must be able to require an Identity Provider to transfer his personal data, to a second Identity Provider in a standard electronic format, free of charge and without impediment or delay.

7 Certification Principle

Statement of Principle: “I can have confidence in the Identity Assurance Service because all the participants have to be certified against common governance requirements.”

7.1 As a baseline control, all Identity Providers and Service Providers will be certified against a shared standard. This is one important way of building trust and confidence in the service.

7.2 As part of the certification process, Identity Providers and Service Providers are obliged to co-operate with the independent Third Party and accept their impartial determination and to ensure that contractual arrangements—

- reinforce the application of the Identity Assurance Principles
- contain a reference to the independent Third Party as a mechanism for dispute resolution.

7.3 In the context of personal data, certification procedures include the use of Privacy Impact Assessments, Security Risk Assessments, Privacy by Design concepts and, in the context of information security, a commitment to using appropriate technical measures (e.g. encryption) and ever improving security management. Wherever possible, such certification processes and security procedures reliant on technical devices should be made publicly available at the appropriate time.

7.4 All Identity Providers and Service Providers will take all reasonable steps to ensure that a Third Party cannot capture IdA data that confirms (or infers) the existence of relationship between any Participant. No relationships between parties or records should be established without the consent of the Service User.

7.5 Certification can be revoked if there is significant non-compliance with any Identity Assurance Principle.

8 Dispute Resolution Principle

Statement of Principle: “If I have a dispute, I can go to an independent Third Party for a resolution.”

8.1 A Service User who, after a reasonable time, cannot, or is unable, to resolve a complaint or problem directly with an Identity Provider or Service Provider can call upon an independent Third Party to seek resolution of the issue. This could happen for example where there is a disagreement between the Service User and the Identity Provider about the accuracy of data.

8.2 The independent Third Party can resolve the same or similar complaints affecting a group of Service Users.

8.3 The independent Third Party can co-operate with other regulators in order to resolve problems and can raise relevant issues of importance concerning the Identity Assurance Service.

8.4 An adjudication/recommendation of the independent Third Party should be published. The independent Third Party must operate transparently, but detailed case histories should only be published subject to appropriate review and consent.

8.5 There can be more than one independent Third Party.

8.6 The independent Third Party can recommend changes to standards or certification procedures or that an Identity Provider or Service Provider should lose their certification.

9 Exceptional Circumstances Principle

Statement of Principle: "Any exception has to be approved by Parliament and is subject to independent scrutiny."

9.1 Any exemption from the application of any of the above Principles to IdA data shall only be lawful if it is linked to a statutory framework that legitimises all Identity Assurance Services, or an Identity Assurance Service in the context of a specific service. In the absence of such a legal framework then alternative measures must be taken to ensure, transparency, scrutiny and accountability for any exceptions.

9.2 Any exemption from the application of any of the above Principles that relates to the processing of personal data must also be necessary and justifiable in terms of one of the criteria in Article 8(2) of the European Convention of Human Rights: namely in the interests of national security; public safety or the economic well-being of the country; for the prevention of disorder or crime; for the protection of health or morals, or for the protection of the rights and freedoms of others.

9.3 Any subsequent processing of personal data by any Third Party who has obtained such data in exceptional circumstances (as identified by Article 8(2) above) must be the minimum necessary to achieve that (or another) exceptional circumstance.

9.4 Any exceptional circumstance involving the processing of personal data must be subject to a Privacy Impact Assessment by all relevant "data controllers" (where "data controller" takes its meaning from the Data Protection Act).

9.5 Any exemption from the application of any of the above Principles in relation to IdA data shall remain subject to the Dispute Resolution Principle."

Sir Chris Bryant

220

☆ Schedule 1, page 141, leave out from line 21 to the end of line 36 on page 144

Member's explanatory statement

This amendment would remove from the new Annex 1 of the UK GDPR provisions which would enable direct marketing for the purposes of democratic engagement. See also Amendment 218.

Secretary Michelle Donelan

Gov 266

★ Schedule 1, page 141, line 23, leave out from "processing" to end and insert "falls within paragraph 10"

Member's explanatory statement

This amendment and Amendment 267 are consequential on the insertion of a new definition of "democratic engagement" by Amendment 269.

Secretary Michelle Donelan

Gov 267

★ Schedule 1, page 141, leave out lines 26 and 27 and insert—

“10. Processing falls within this paragraph if—”

Member's explanatory statement

See the explanatory statement for Amendment 266.

Secretary Michelle Donelan

Gov 268

★ Schedule 1, page 141, line 35, leave out from beginning to end of line 5 on page 142 and insert—

- “(i) is carried out by a registered political party, and
- (ii) is necessary for the purposes of the party's election activities or democratic engagement activities,”

Member's explanatory statement

This amendment clarifies the types of processing by a registered political party that fall within paragraph 10 of new Annex 1 to the UK GDPR (lawfulness of processing: recognised legitimate interests). See also the definitions inserted by Amendments 269, 273 and 274.

Secretary Michelle Donelan

Gov 269

★ Schedule 1, page 142, line 19, at end insert—

“10A. For the purposes of paragraph 10(a) and (b)—

- (a) “democratic engagement activities” means activities whose purpose is to support or promote democratic engagement;
- (b) “democratic engagement” means engagement by the public, a section of the public or a particular person with, or with an aspect of, an electoral system or other democratic process in the United Kingdom, either generally or in connection with a particular matter, whether by participating in the system or process or engaging with it in another way;
- (c) examples of democratic engagement activities include activities whose purpose is—
 - (i) to promote the registration of individuals as electors;
 - (ii) to increase the number of electors participating in elections for elected representatives, referendums or processes for recall petitions in which they are entitled to participate;
 - (iii) to support an elected representative or registered political party in discharging functions, or carrying on other activities, described in paragraph 10(a) or (b);
 - (iv) to support a person to become a candidate for election as an elected representative;

- (v) to support a campaign or campaigning referred to in paragraph 10(c), (d) or (e);
- (vi) to raise funds to support activities whose purpose is described in points (i) to (v);
- (d) examples of activities that may be democratic engagement activities include—
 - (i) gathering opinions, whether by carrying out a survey or by other means;
 - (ii) communicating with electors.”

Member's explanatory statement

This amendment clarifies the meaning of “democratic engagement activities” in new Annex 1 to the UK GDPR (which describes circumstances in which processing of personal data meets the requirement for lawfulness under Article 6 of the UK GDPR).

Secretary Michelle Donelan

Gov 270

- ★ Schedule 1, page 142, leave out line 20 and insert—

“11. In paragraphs 9 to 14—”

Member's explanatory statement

This amendment is consequential on Amendments 269, 273 and 277.

Secretary Michelle Donelan

Gov 271

- ★ Schedule 1, page 142, leave out lines 26 and 27

Member's explanatory statement

This amendment is consequential on Amendment 269.

Secretary Michelle Donelan

Gov 272

- ★ Schedule 1, page 142, line 29, after “13” insert “, 13A”

Member's explanatory statement

This amendment is consequential on Amendment 277.

Secretary Michelle Donelan

Gov 273

- ★ Schedule 1, page 142, line 29, at end insert—

““election activities”, in relation to a registered political party, means—

- (a) campaigning in connection with an election for an elected representative, and

- (b) activities whose purpose is to enhance the standing of the party, or of a candidate standing for election in its name, with electors;
 “elector” means a person who is entitled to vote in an election for an elected representative or in a referendum;”

Member's explanatory statement

This amendment inserts definitions of terms used in provision inserted by Amendments 268 and 269.

Secretary Michelle Donelan

Gov 274

- ★ Schedule 1, page 142, line 36, at end insert—

““registered political party” means a person or organisation included in a register maintained under section 23 of the Political Parties, Elections and Referendums Act 2000;

“successful”, in relation to a recall petition, has the same meaning as in the Recall of MPs Act 2015 (see section 14 of that Act).”

Member's explanatory statement

This amendment inserts definitions of terms used in provision inserted by Amendments 268, 269 and 277.

Secretary Michelle Donelan

Gov 275

- ★ Schedule 1, page 142, line 37, after “in” insert “the definitions of “candidate” and “elected representative” in”

Member's explanatory statement

This minor amendment inserts words specifying that the table in paragraph 12 of new Annex 1 to the UK GDPR is relevant for the purposes of certain definitions in paragraph 11 of that Annex.

Secretary Michelle Donelan

Gov 276

- ★ Schedule 1, page 143, line 36, at end insert—

<p>“(ga) a mayor for the area of a combined county authority established under section 9 of the Levelling-up and Regeneration Act 2023</p>	<p>section 118A of the Representation of the People Act 1983, as applied by the Combined Authorities (Mayoral Elections) Order 2017 (S.I. 2017/67)”</p>
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Member's explanatory statement

This amendment adds mayors for the area of a combined county authority established under section 9 of the Levelling-up and Regeneration Act 2023 to the list of elected representatives in new Annex 1 to the UK GDPR (lawfulness of processing: recognised legitimate interests).

Secretary Michelle Donelan

Gov 277

★ Schedule 1, page 144, line 30, at end insert—

“13A. For the purposes of the definition of “elected representative” in paragraph 11, where a member of the House of Commons’s seat becomes vacant as a result of a successful recall petition, that person is to be treated as if they were a member of the House of Commons until the end of the period of 30 days beginning with the day after—

- (a) the day on which the resulting by-election is held, or
- (b) if earlier, the day on which the next general election in relation to Parliament is held.”

Member's explanatory statement

This amendment extends the period for which a member of the House of Commons who is the subject of a successful recall petition is treated as an “elected representative” for the purposes of paragraphs of new Annex 1 to the UK GDPR (lawfulness of processing: recognised legitimate interests) relating to democratic engagement.

Secretary Michelle Donelan

Gov 208

Schedule 2, page 145, line 20, at end insert—

“Disclosure for the purposes of archiving in the public interest

1A. This condition is met where—

- (a) the processing—
 - (i) is necessary for the purposes of making a disclosure of personal data to another person (“R”) in response to a request from R, and
 - (ii) is carried out in accordance with Article 84B,
- (b) the controller in relation to the processing collected the personal data based on Article 6(1)(a) (data subject’s consent),
- (c) the request from R states that R intends to process the personal data only for the purposes of archiving in the public interest, and
- (d) the controller reasonably believes that R will carry out that processing in accordance with generally recognised standards relevant to R’s archiving in the public interest.”

Member's explanatory statement

This amendment enables certain further processing of personal data, for the purposes of archiving in the public interest, where the original processing was based on consent of the data subject.

Secretary Michelle Donelan

Gov 209

Schedule 2, page 146, line 29, leave out “carried out” and insert “necessary”

Member's explanatory statement

This amendment amends a condition which, if met, results in processing of personal data for a new purpose being treated as compatible with the original purpose for which it was collected. It provides that, in order for processing to meet the condition, it must be necessary for the purpose described (assessment or collection of tax).

Secretary Michelle Donelan

Gov 210

Schedule 4, page 149, line 23, leave out paragraph 8 and insert—

“8 In Article 49 (derogations for specific authorities), for paragraph 6 substitute—

“6. The controller or processor must—

- (a) maintain appropriate records of the assessment and safeguards referred to in the second subparagraph of paragraph 1, and
- (b) make the records available to the Commissioner on request.”

Member's explanatory statement

This amendment maintains the duty to keep records of assessments made, and safeguards provided, in accordance with Article 49 of the UK GDPR, but removes the requirement to keep them as part of the general records of processing (see Article 30, which is to be replaced by new Article 30A inserted by clause 16).

Secretary Michelle Donelan

Gov 211

Schedule 4, page 151, line 11, leave out paragraph 21 and insert—

“21 For paragraph 41 of Schedule 1 (additional safeguard for processing of special categories of personal data etc: record of processing) substitute—

“41(1) A controller must maintain appropriate records of processing of personal data carried out in reliance on a condition described in paragraph 38.

(2) The records must include the following information—

- (a) which condition is relied on,
- (b) how the processing satisfies Article 6 of the UK GDPR (lawfulness of processing), and
- (c) whether the personal data is retained and erased in accordance with the policies described in paragraph 39(b) and, if it is not, the reasons for not following those policies.

(3) The controller must make the records available to the Commissioner on request.”

Member's explanatory statement

This amendment maintains the duty to keep records of processing in reliance on certain conditions in Schedule 1 to the Data Protection Act 2018, but removes the requirement to keep them as part

of the general records of processing (see Article 30, which is to be replaced by new Article 30A inserted by clause 16).

Kate Osborne

15

Schedule 5, page 154, line 2, at end insert—

“(g) the views of the Information Commission on suitability of international transfer of data to the country or organisation.”

Member's explanatory statement

This amendment requires the Secretary of State to seek the views of the Information Commission on whether a country or organisation has met the data protection test for international data transfer.

Kate Osborne

14

Schedule 5, page 154, line 25, at end insert—

“5. In relation to special category data, the Information Commissioner must assess whether the data protection test is met for data transfer to a third country or international organisation.”

Member's explanatory statement

This amendment requires the Information Commission to assess suitability for international transfer of special category data to a third country or international organisation.

Kate Osborne

13

Schedule 5, page 154, line 30, leave out “ongoing” and insert “annual”

Member's explanatory statement

This amendment mandates that a country’s suitability for international transfer of data is monitored on an annual basis.

Kate Osborne

16

Schedule 6, page 162, line 36, at end insert—

“(g) the views of the Information Commission on suitability of international transfer of data to the country or organisation.”

Member's explanatory statement

This amendment requires the Secretary of State to seek the views of the Information Commission on whether a country or organisation has met the data protection test for international data transfer in relation to law enforcement processing.

Secretary Michelle Donelan

Gov 212

Schedule 10, page 181, line 12, leave out "141" and insert "141A"

Member's explanatory statement

This amendment is consequential on Amendment NC8.

Layla Moran

231

★ Schedule 13, page 202, line 33, at end insert—

"(2A) A person may not be appointed under sub-paragraph (2) unless the Science, Innovation and Technology Committee of the House of Commons has endorsed the proposed appointment."

Member's explanatory statement

This amendment would ensure that non-executive members of the Information Commission may not be appointed unless the Science, Innovation and Technology Committee has endorsed the Secretary of State's proposed appointee.

Secretary Michelle Donelan

Gov 213

Title, line 10, after "purposes;" insert "to make provision for a power to obtain information for social security purposes;"

Member's explanatory statement

This amendment is consequential on new clause NC34 and new Schedule NS1.

Secretary Michelle Donelan

Gov 214

Title, line 10, after "purposes;" insert "to make provision about the retention of information by providers of internet services in connection with investigations into child deaths;"

Member's explanatory statement

This amendment is consequential on new clause NC35.

Secretary Michelle Donelan

Gov 215

Title, line 11, after "deaths;" insert "to make provision about the recording and sharing, and keeping of a register, of information relating to apparatus in streets;"

Member's explanatory statement

This amendment is consequential on Amendments NC39, NC40 and NS2.

Secretary Michelle Donelan

Gov 216

Title, line 13, after "about" insert "retention and"

Member's explanatory statement

This amendment is consequential on new clauses NC36, NC37 and NC38.

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.