
Committee Stage: Tuesday 5 March 2024

Investigatory Powers (Amendment) Bill [HL] (Amendment Paper)

This document lists all amendments tabled to the Investigatory Powers (Amendment) Bill [HL]. Any withdrawn amendments are listed at the end of the document.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.

New Amendments: 6 to 42 and NC1 to NC4

Tom Tugendhat

To move, That the Bill be considered in the following order, namely, Clauses 1 to 14; the Schedule; Clauses 15 to 33; new Clauses; new Schedules; remaining proceedings on the Bill.

Tom Tugendhat

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.

Dan Jarvis

14

★ Clause 2, page 3, line 18 at end insert—

“(1A) This section does not apply to a bulk personal dataset unless it has been published in accordance with the Data Protection Act 2018.”

Member's explanatory statement

This amendment would ensure bulk personal datasets with low or no expectation of privacy have been published lawfully and in accordance with General Data Protection Regulation (GDPR) set out in the Data Protection Act 2018.

Stuart C McDonald

21

Owen Thompson

★ Clause 2, page 3, line 34, at end insert—

“(4) By way of example, bulk datasets of images obtained by CCTV and bulk datasets of Facebook posts are not to be considered datasets where the individuals to whom the data relates could have no, or only a low, reasonable expectation of privacy.”

Member's explanatory statement

Probing amendment regarding the scope of “low or no reasonable expectation of privacy”.

Stuart C McDonald

22

Owen Thompson

★ Clause 2, page 4, leave out lines 27 to 30

Member's explanatory statement

This amendment is consequential on Amendment 23.

Stuart C McDonald

23

Owen Thompson

★ Clause 2, page 5, leave out lines 1 to 14

Member's explanatory statement

This amendment would remove proposed new section 226BA, thereby removing the ability to grant “category authorisations”.

Dan Jarvis

15

★ Clause 2, page 5, line 14, at end insert—

“(4) The head of an intelligence service, or a person acting on their behalf, must notify the Investigatory Powers Commissioner as soon as is reasonably practical after a decision has been taken to include a bulk personal dataset within a category authorisation in effect under this section.”

Member's explanatory statement

This amendment would require that the Investigatory Powers Commissioner is notified when a new bulk personal dataset is added by an intelligence agency to an existing category authorisation.

Stuart C McDonald

24

Owen Thompson

★ Clause 2, page 5, line 17, leave out “or a category authorisation”

Member's explanatory statement

This amendment is consequential on Amendment 23.

Stuart C McDonald

25

Owen Thompson

★ Clause 2, page 5, leave out lines 23 to 25

Member's explanatory statement

This amendment is consequential on Amendment 23.

Stuart C McDonald

26

Owen Thompson

★ Clause 2, page 5, line 34, leave out "or a category authorisation"

Member's explanatory statement

This amendment is consequential on Amendment 23.

Stuart C McDonald

27

Owen Thompson

★ Clause 2, page 5, line 39, leave out "or a category authorisation"

Member's explanatory statement

This amendment is consequential on Amendment 23.

Stuart C McDonald

28

Owen Thompson

★ Clause 2, page 7, line 3, leave out "or a category authorisation"

Member's explanatory statement

This amendment is consequential on Amendment 23.

Stuart C McDonald

29

Owen Thompson

★ Clause 2, page 7, line 28, leave out "or a category authorisation"

Member's explanatory statement

This amendment is consequential on Amendment 23.

Stuart C McDonald

30

Owen Thompson

★ Clause 2, page 8, leave out lines 6 to 15

Member's explanatory statement

This amendment is consequential on Amendment 23.

Stuart C McDonald

31

Owen Thompson

★ Clause 2, page 8, leave out lines 19 to 23

Member's explanatory statement

This amendment is consequential on Amendment 23.

Stuart C McDonald

32

Owen Thompson

★ Clause 2, page 8, line 37, leave out "or a category authorisation"

Member's explanatory statement

This amendment is consequential on Amendment 23.

Stuart C McDonald

33

Owen Thompson

★ Clause 2, page 8, line 41, leave out from "authorisation" to "they" on page 9, line 1

Member's explanatory statement

This amendment is consequential on Amendment 23.

Stuart C McDonald

34

Owen Thompson

★ Clause 2, page 9, leave out lines 16 to 18

Member's explanatory statement

This amendment is consequential on Amendment 23.

Stuart C McDonald**35**

Owen Thompson

- ★ Clause 2, page 9, leave out from the beginning of line 38 to the end of line 13 on page 10

Member's explanatory statement

This amendment is consequential on Amendment 23.

Stuart C McDonald**36**

Owen Thompson

- ★ Clause 2, page 11, leave out lines 17 to 29

Member's explanatory statement

This amendment is consequential on Amendment 23.

Stuart C McDonald**38**

Owen Thompson

- ★ Clause 2, page 11, line 21, at end insert—

“(1A) The report provided under subsection (1) must include an annex listing the bulk datasets retained or retained and examined under each category authorisation granted during the relevant period.”

Member's explanatory statement

This amendment would require information about the scale and nature of use of category authorisations to be provided to the Intelligence and Security Committee.

Stuart C McDonald**37**

Owen Thompson

- ★ Clause 2, page 11, leave out lines 32 and 33

Member's explanatory statement

This amendment is consequential on Amendment 23.

Stuart C McDonald

20

Owen Thompson

★ Page 3, line 9, leave out Clause 2

Dan Jarvis

16

★ Clause 5, page 14, line 34, at end insert—

“(4) A third party BPD warrant may not authorise the examination of a dataset consisting of the contents of the marked electoral register.”

Member's explanatory statement

This amendment would prevent a third-party bulk personal dataset consisting of the electoral register, which sets out whether people have voted, from being examined by the intelligence services.

Tom Tugendhat

Gov 1

Clause 11, page 31, line 36, leave out “a court or tribunal” and insert “the Investigatory Powers Tribunal”

Member's explanatory statement

This amendment is consequential on amendment 2.

Tom Tugendhat

Gov 2

Clause 11, page 32, line 19, at end insert—

“(1A) In section 65 of the Regulation of Investigatory Powers Act 2000 (the Tribunal)—

(a) in subsection (2), after paragraph (b) insert—

“(ba) to consider and determine any complaints made to them which, in accordance with subsection (4AA), are complaints for which the Tribunal is the appropriate forum;”;

(b) after subsection (4) insert—

“(4AA) The Tribunal is the appropriate forum for a complaint if it is a complaint by an individual about a relevant personal data breach.

(4AB) In subsection (4AA) “relevant personal data breach” means a personal data breach that the individual is informed of under section 235A(5) of the Investigatory Powers Act 2016 (serious personal data breaches).”

(1B) In section 67 of the Regulation of Investigatory Powers Act 2000 (exercise of the Tribunal’s jurisdiction)—

(a) in subsection (1)(b), after “65(2)(b)” insert “, (ba)”;

- (b) in subsection (5)—
 - (i) the words from “section” to the end become paragraph (a), and
 - (ii) after that paragraph insert “, or
 - (b) section 65(2)(ba) if it is made more than one year after the personal data breach to which it relates.”;
 - (c) in subsection (6), for “reference” substitute “complaint or reference has been”.
- (1C) In section 68 of the Regulation of Investigatory Powers Act 2000 (Tribunal procedure), for subsection (8) substitute—
- “(8) In this section “relevant Commissioner” means—
- (a) the Investigatory Powers Commissioner or any other Judicial Commissioner,
 - (b) the Investigatory Powers Commissioner for Northern Ireland, or
 - (c) the Information Commissioner.””

Member's explanatory statement

This amendment provides for the Investigatory Powers Tribunal to be the appropriate forum for complaints by individuals about certain personal data breaches reported to the Investigatory Powers Commissioner under section 235A of the Investigatory Powers Act 2016 (personal data breaches).

Stuart C McDonald

39

Owen Thompson

- ★ Clause 12, page 33, leave out lines 16 and 17

Member's explanatory statement

This amendment would remove one of the examples cases where a relevant person has lawful authority to obtain communications data from a telecommunications operator or postal operator, being where the data has been “published”.

Stuart C McDonald

40

Owen Thompson

- ★ Page 35, line 10, leave out Clause 15

Stuart C McDonald

41

Owen Thompson

- ★ Page 37, line 16, leave out Clause 18

Tom Tugendhat

Gov 6

- ★ Clause 21, page 45, line 7, leave out first “person” and insert “relevant operator”

Member's explanatory statement

This amendment and amendments 8, 7, 10, 11, 12 and 13 provide that the expression “relevant operator” is used consistently in inserted sections 258A and 258B of the Investigatory Powers Act 2016.

Tom Tugendhat

Gov 7

- ★ Clause 21, page 45, line 8, leave out “person’s” and insert “relevant operator’s”

Member's explanatory statement

See amendment 6.

Tom Tugendhat

Gov 8

- ★ Clause 21, page 45, line 29, at end insert—

““relevant operator” has the same meaning as in that section.”

Member's explanatory statement

See amendment 6.

Tom Tugendhat

Gov 9

- ★ Clause 21, page 45, line 35, leave out “notice, as varied,” and insert “variation”

Member's explanatory statement

This amendment provides that references to the variation of a notice are used consistently in Chapter 1 of Part 9 of the Investigatory Powers Act 2016.

Tom Tugendhat

Gov 10

- ★ Clause 21, page 46, line 2, leave out first “person” and insert “relevant operator”

Member's explanatory statement

See amendment 6.

Tom Tugendhat

Gov 11

- ★ Clause 21, page 46, line 2, leave out second “person” and insert “relevant operator”

Member's explanatory statement

See amendment 6.

Tom Tugendhat

Gov 12

- ★ Clause 21, page 46, line 5, leave out “person” and insert “relevant operator”

Member's explanatory statement

See amendment 6.

Tom Tugendhat

Gov 13

- ★ Clause 21, page 46, line 6, leave out “person” and insert “relevant operator”

Member's explanatory statement

See amendment 6.

Stuart C McDonald

42

Owen Thompson

- ★ Page 44, line 4, leave out Clause 21

Tom Tugendhat

Gov 3

Clause 22, page 47, line 17, leave out from “and” to end of line 19 and insert—

“(b) has the necessary operational awareness to decide whether to give approvals under subsection (2).”

Member's explanatory statement

This amendment replaces the reference to an individual being required in their routine duties to issue warrants under the Investigatory Powers Act 2016 with a reference to an individual being required to have the necessary operational awareness to decide whether to give approvals under section 26 of that Act.

Dan Jarvis

17

- ★ Clause 22, page 47, line 26, at end insert—

“(2G) If a warrant is issued by an individual designated by the Prime Minister, the Prime Minister must be informed of that decision as soon as it is reasonably practical to do so.”

Member's explanatory statement

This amendment would require the Prime Minister to be notified of a decision of a designated Secretary of State to authorise the interception of certain elected representatives' communications as soon as is reasonably practicable.

Tom Tugendhat**Gov 4**

Clause 23, page 48, line 15, leave out from "and" to end of line 17 and insert—

"(b) has the necessary operational awareness to decide whether to give approvals under subsection (3) or (6)."

Member's explanatory statement

This amendment replaces the reference to an individual being required in their routine duties to issue warrants under the Investigatory Powers Act 2016 with a reference to an individual being required to have the necessary operational awareness to decide whether to give approvals under section 111 of that Act.

Dan Jarvis**18**

★ Clause 23, page 48, line 21, at end insert—

"(7F) If a warrant is issued by an individual designated by the Prime Minister, the Prime Minister must be informed of that decision as soon as it is reasonably practical to do so."

Member's explanatory statement

This amendment would require the Prime Minister to be notified of a decision of a designated Secretary of State to authorise a targeted equipment interference warrant relating to one of certain elected representatives as soon as is reasonably practicable.

Dan Jarvis**19**

★ Clause 27, page 50, line 9, at end insert—

"(2A) Where a senior official acts on behalf of the Secretary of State under subsection (2), they must inform the Investigatory Powers Commissioner of the selection for examination of BEI material as soon as reasonably practicable."

Member's explanatory statement

This amendment would require a senior official acting on behalf of the Secretary of State who has selected BEI material for examination when there has been an urgent need to do so to inform the Investigatory Powers Commissioner as soon as reasonably practicable.

Tom Tugendhat**Gov 5**

Clause 33, page 56, line 1, leave out subsection (2)

Member's explanatory statement

This amendment removes the privilege amendment inserted by the Lords.

Dan Jarvis

NC1

★ To move the following Clause—

“Requirement for the Prime Minister to appear before the Intelligence and Security Committee

After section 26 of the Investigatory Powers Act 2016, insert—

“26A Requirement for the Prime Minister to appear before the Intelligence and Security Committee

- (1) The Prime Minister must appear before the Intelligence and Security Committee of Parliament to provide oral evidence on the matter set out in subsection (2).
- (2) The matter is decisions made by the Prime Minister or an individual designated under section 26 to—
 - (a) give approval to issue warrants to intercept and examine communications of Members of Parliament;
 - (b) interfere with equipment belonging to Members of Parliament;
 - (c) other relevant decisions relating to Members of Parliament in the interests of national security
- (3) The duty in subsection (1) applies once every session of Parliament.
- (4) Subsection (1) does not apply if the Intelligence and Security Committee does not require the Prime Minister to attend.”

Member's explanatory statement

This new clause would require that, before considering directions, the Secretary of State must see independent advice on options for the Prime Minister to provide oral evidence once a year to the Intelligence and Security Committee on decisions relating to warrants and in the interests of national security.

Dan Jarvis

NC2

★ To move the following Clause—

“Report on the Prime Minister’s engagement with the Intelligence and Security Committee

After section 240 of the Investigatory Powers Act 2016 insert—

“240A Report on the Prime Minister’s engagement with the Intelligence and Security Committee

- (1) The Secretary of State must publish a report about the Prime Minister’s engagement with the Intelligence and Security Committee in relation to the investigatory powers regime and lay the report before Parliament.
- (2) The report must be published within six months of the passage of the Investigatory Powers (Amendment) Act 2024, and annually thereafter.””

Member’s explanatory statement

This new clause would ensure the Secretary of State publishes a report on the engagement, including any meeting held, between the Prime Minister and the Intelligence and Security Committee in relation to the investigatory powers regime.

Dan Jarvis

NC3

★ To move the following Clause—

“Impact of Act on EU data adequacy decisions

Within six months of the passage of this Act, the Secretary of State must publish a report assessing the potential impact of this Act on EU data adequacy decisions relating to the United Kingdom.”

Member’s explanatory statement

This new clause would require the Secretary of State to publish a report on potential impact of the provisions within this Bill on the requirements necessary to maintain a data adequacy decision by the EU.

Stuart C McDonald

NC4

Owen Thompson

★ To move the following Clause—

“Interception notification for Members of Parliament etc.

After section 26 of the Investigatory Powers Act 2016 (Members of Parliament etc.) insert—

“26A Interception notification for Members of Parliament etc.

- (1) Upon completion of conduct authorised by a warrant under section 26, or the cancellation of a warrant issued under that section, a Judicial Commissioner must notify the subject of the warrant, in writing, of—
 - (a) the conduct that has taken place, and
 - (b) the provisions under which the conduct has taken place.
- (2) The notification under subsection (1) must be sent within thirty days of the completion of the conduct or cancellation of the warrant.

- (3) A Judicial Commissioner may postpone the notification under subsection (1) beyond the time limit under subsection (2) if the Judicial Commissioner assesses that notification may defeat the purposes of an ongoing serious crime or national security investigation relating to the subject of the warrant.
- (4) A Judicial Commissioner must consult the person who applied for the warrant in order to fulfil an assessment under subsection (3).””

Member's explanatory statement

This new clause would require members of a relevant legislation who are targets of interception to be notified after the fact, as long as it does not compromise any ongoing investigation.

Order of the House

[19 February 2024]

That the following provisions shall apply to the Investigatory Powers (Amendment) Bill [Lords]:

Committal

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

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 12 March 2024.
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.