
Report Stage: Thursday 21 March 2024

Investigatory Powers (Amendment) Bill [HL], As Amended

(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 Any withdrawn amendments are listed at the end of the document.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.

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

New Amendments: 7 to 28 and NC1 to NC5

—
Dan Jarvis

NC1

★ 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 require the Secretary of State to publish a report on the engagement between the Prime Minister and the Intelligence and Security Committee, including any meeting held, in relation to the investigatory powers regime.

Dan Jarvis

NC2

★ To move the following Clause—

“Requirement for the Secretary of State to publish an annual report on technology-enabled serious and organised crime and technology-enabled threats to national security

After section 234 of the Investigatory Powers Act 2016, insert—

“234A Requirement for the Secretary of State to publish an annual report on technology-enabled serious and organised crime and technology-enabled threats to national security

- (1) The Secretary of State must publish a report on technology-assisted crime insofar as it relates to measures set out in this Act and the Investigatory Powers Act 2016.
- (2) The report must be published within one year of the passing of the Investigatory Powers (Amendment) Act 2024, and annually thereafter.””

Member's explanatory statement

This new clause would ensure the Secretary of State publishes an annual report on technology-enabled serious and organised crime and technology-enabled threats to national security insofar as it relates to measures set out in this Act and the Investigatory Powers Act 2016.

Sir David Davis

NC3

★ To move the following Clause—

“Prevention of torture or cruel, inhuman or degrading treatment or punishment

- (1) The Investigatory Powers Act 2016 is amended as follows.
- (2) Before section 260 (and the cross-heading before that section), insert—

“Prevention of torture or cruel, inhuman or degrading treatment or punishment

259A Prevention of torture or cruel, inhuman or degrading treatment or punishment

No public authority may take any action, whether retention, examination, disclosure, handing over to any overseas authority or any other action authorised by this or any other enactment, in relation to material obtained in accordance with the provisions of this Act if the public authority knows or believes that action—

- (a) would result in torture or cruel, inhuman or degrading treatment or punishment, or
- (b) presents a real risk of resulting in torture or cruel, inhuman, or degrading treatment or punishment.””

Sir David Davis

NC4

★ To move the following Clause—

“Members of Parliament: interception and examination of communications and equipment interference

- (1) The Investigatory Powers Act 2016 is amended as follows.
- (2) In section 26 (targeted interception warrants and targeted examination warrants: Members of Parliament etc.), after subsection (2), insert—

“(2A) The Secretary of State may not issue the warrant if it relates to communications sent by, or intended for, a member of the House of Commons.”
- (3) In section 111 (targeted equipment interference warrants: Members of Parliament etc.), after subsection (7), insert—

“(7A) A warrant may not be issued under this section if it relates to—
 - (a) communications sent by, or intended for, a member of the House of Commons, or
 - (b) a member of the House of Commons’s private information.””

Member's explanatory statement

This new clause would remove the ability of the Secretary of State to authorise the interception of the communications of, or the obtaining of communications intended for, or private information belonging to, Members of Parliament.

Sir David Davis

NC5

★ 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 legislature who are targets of interception to be notified after the fact, as long as it does not compromise any ongoing investigation.

Stuart C McDonald 7
Owen Thompson

- ★ Page 3, line 9, leave out Clause 2

Stuart C McDonald 8
Owen Thompson

- ★ Clause 2, page 3, line 17, leave out “, or only a low,”

Dan Jarvis 24

- ★ 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 probing amendment would mean that individual and category authorisations for bulk personal datasets would not apply to bulk personal datasets unless they had been published in accordance with General Data Protection Regulation (GDPR) set out in the Data Protection Act 2018.

Stuart C McDonald 9
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

This is a probing amendment regarding the scope of “low or no reasonable expectation of privacy”.

Stuart C McDonald

10

Owen Thompson

- ★ Clause 2, page 5, line 7, leave out “any dataset that falls” and insert “all datasets that fall”

Member's explanatory statement

This amendment would clarify that all the datasets covered by a category authorisation must be “low or no privacy” and not just some of them.

Stuart C McDonald

11

Owen Thompson

- ★ Clause 2, page 11, line 3, at end insert—

“226DZA Notification and review of bulk personal datasets retained under category authorisations

- (1) This section applies where a category authorisation has been approved by a Judicial Commissioner under section 226BB.
- (2) The head of an intelligence service, or a person acting on their behalf, must notify the Judicial Commissioner within 28 days of a bulk personal dataset being retained or retained and examined under the category authorisation.
- (3) The notification under subsection (2) must include a description of the dataset and the data it includes, the purpose for which it is being used and the number of individuals whose data is contained in the dataset.
- (4) The Judicial Commissioner, on reviewing any notifications received under subsection (2), must cancel the category authorisation if the Commissioner considers that section 226A no longer applies to any dataset that falls within the category of datasets described in the authorisation.
- (5) The Judicial Commissioner, on reviewing any notifications received under subsection (2), must cancel the relevant individual authorisation if the Commissioner considers that the condition in section 226B(4) is not met in relation to that bulk personal dataset.”

Member's explanatory statement

This amendment would provide for ex-post facto judicial oversight of the use of category authorisations, including the conditions for individual authorisations made under them.

Stuart C McDonald

13

Owen Thompson

★ Clause 12, page 34, leave out lines 5 and 6 and insert—

“(e) where the communications data has been made publicly or commercially available by the telecommunications operator or postal operator”

Member's explanatory statement

This amendment would align the new provisions with existing Communication Data Codes of Practice.

Stuart C McDonald

12

Owen Thompson

★ Clause 12, page 34, leave out lines 5 and 6

Member's explanatory statement

This amendment would remove one of the example 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”.

Secretary James Cleverly

Gov 3

☆ Clause 14, page 35, line 5, after “exercise” insert “by a specified public authority”

Member's explanatory statement

This amendment and Amendments 4, 5 and 6 restrict the class of public authorities whose powers to secure disclosures of communications data are affected by this Clause.

Secretary James Cleverly

Gov 4

☆ Clause 14, page 35, line 17, at end insert—

“(5A) After subsection (5) insert—

“(5A) In this section “specified public authority” means a public authority which is—

- (a) listed in Schedule 2A, or
- (b) listed in column 1 of the table in Schedule 4.

(5B) The Secretary of State or the Treasury may by regulations modify Schedule 2A by—

- (a) adding a public authority to, or
- (b) removing a public authority from,

the list in that Schedule.””

Member's explanatory statement

See the explanatory statement for Amendment 3.

Secretary James Cleverly

Gov 5

☆ Clause 14, page 35, line 35, at end insert—

“(6A) In section 267 of the Investigatory Powers Act 2016 (regulations), in subsection (5), after paragraph (a) insert—

“(aa) regulations under section 12(5B),”.

Member's explanatory statement

See the explanatory statement for Amendment 3.

Secretary James Cleverly

Gov 6

☆ Clause 14, page 35, line 35, at end insert—

“(6B) In the Investigatory Powers Act 2016, after Schedule 2 insert—

“SCHEDULE 2A

Section 12(5A)

SPECIFIED PUBLIC AUTHORITIES FOR THE PURPOSES OF SECTION 12

- 1 The Treasury.
- 2 A local authority.

In this Schedule “local authority” has the same meaning as in Part 3 (see section 86).”

Member's explanatory statement

See the explanatory statement for Amendment 3.

Stuart C McDonald

14

Owen Thompson

★ Page 36, line 2, leave out Clause 15

Stuart C McDonald

15

Owen Thompson

★ Clause 15, page 36, line 35, at end insert—

“(c) the Investigatory Powers Commissioner agrees with the judgment of the officer made in accordance with paragraph (b)”

Member's explanatory statement

This amendment would ensure that all use of new powers in relation to Internet Connection Records was subject to oversight by the Investigatory Powers Commissioner.

Stuart C McDonald

16

Owen Thompson

★ Page 38, line 11, leave out Clause 18

Stuart C McDonald

17

Owen Thompson

★ Page 44, line 39, leave out Clause 21

Stuart C McDonald

18

Owen Thompson

★ Clause 21, page 45, line 3, at the beginning insert “Subject to subsection (1A),”

Member's explanatory statement

This amendment is consequential on amendment 19.

Stuart C McDonald

19

Owen Thompson

★ Clause 21, page 45, line 6, at end insert—

“(1A) The Secretary of State may not give a relevant operator a notice under this section unless the notice has been approved by a Judicial Commissioner.

(1B) In deciding whether to approve a notice under this section, a Judicial Commissioner must review the conclusions of the Secretary of State as to the matters referred to in subsections (5) and (6)”

Member's explanatory statement

This amendment would introduce judicial oversight of new powers to issue communications providers with notices requiring them to notify the Secretary of State of relevant changes to the service.

Sir David Davis

25

★ Page 47, line 28, leave out Clause 22

Member's explanatory statement

This amendment is consequential on NC4.

Mr Kevan Jones

20

Sir Julian Lewis
Sir John Hayes
Sir Jeremy Wright
Owen Thompson
Dame Angela Eagle

- ★ Clause 22, page 48, line 13, leave out “has the necessary operational awareness to decide whether” and insert “is either required in their routine duties to issue warrants under section 19 or section 102 or has the necessary operational experience”

Member's explanatory statement

This amendment would permit the Prime Minister to nominate a Secretary of State to act for the Prime Minister under this section if they are required in their routine duties to issue warrants under section 19 or section 102 of the Investigatory Powers Act 2016 or if they have the necessary operational experience.

Mr Kevan Jones

21

Sir Julian Lewis
Sir John Hayes
Sir Jeremy Wright
Owen Thompson
Dame Angela Eagle

- ★ Clause 22, page 48, line 14, at end insert—

“(2DA) The Prime Minister must be notified of the individual’s decision as soon as it is reasonably practicable to do so.”

Member's explanatory statement

This amendment would require the Prime Minister to be notified of the decision of the designated Secretary of State as soon as is reasonably practicable.

Sir David Davis

27

- ★ Clause 22, page 48, line 21, at end insert—

“(2G) The Prime Minister may not give approval under this section unless it has been authorised by a judge of the Supreme Court.”

Member's explanatory statement

This amendment would require the authorisation of a judge of the Supreme Court before the Prime Minister could approve the interception of the communications of a Member of Parliament.

Sir David Davis

26

- ★ Page 48, line 22, leave out Clause 23

Member's explanatory statement

This amendment is consequential on NC4.

Mr Kevan Jones

22

Sir Julian Lewis
 Sir John Hayes
 Sir Jeremy Wright
 Owen Thompson
 Dame Angela Eagle

- ★ Clause 23, page 49, line 13, leave out “has the necessary operational awareness to decide whether” and insert “is required in their routine duties to issue warrants under section 19 or section 102 or has the necessary operational experience”

Member's explanatory statement

This amendment would permit the Prime Minister to nominate a Secretary of State to act for the Prime Minister under this section if they are required in their routine duties to issue warrants under section 19 or section 102 of the Investigatory Powers Act 2016 or if they have the necessary operational experience.

Mr Kevan Jones

23

Sir Julian Lewis
 Sir John Hayes
 Sir Jeremy Wright
 Owen Thompson
 Dame Angela Eagle

- ★ Clause 23, page 49, line 14, at end insert—

“(7DA) The Prime Minister must be notified of the individual’s decision as soon as it is reasonably practicable to do so.”

Member's explanatory statement

This amendment would require the Prime Minister to be notified of the decision of the designated Secretary of State as soon as is reasonably practicable.

Sir David Davis

28

- ★ Clause 23, page 49, line 18, at end insert—

“(7F) The Prime Minister may not give approval under this section unless it has been authorised by a judge of the Supreme Court.”

Member's explanatory statement

This amendment would require the authorisation of a judge of the Supreme Court before the Prime Minister could approve the obtaining of communications intended for, or private information belonging to, a Member of Parliament.

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.
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Withdrawn Amendments

The following amendments were withdrawn on 20 March 2024:

Amendments 1 and 2