

Investigatory Powers Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE

Before Clause 1

BARONESS HAMWEE
LORD PADDICK

Insert the following new Clause –

“Tests for the intrusion of privacy

“In making decisions and taking actions under this Act a public authority must have regard to the following –

- (a) the rule of law,
- (b) necessity,
- (c) proportionality,
- (d) the need for restraint,
- (e) the need for effective oversight,
- (f) recognition of necessary secrecy,
- (g) the principle of minimal secrecy,
- (h) the need for transparency,
- (i) legislative clarity, and
- (j) multilateral collaboration.”

Clause 1

BARONESS HAMWEE
LORD PADDICK

Page 1, line 4, at end insert –

- “() This Act provides certain new powers and applies certain safeguards in relation to the use of all powers relating to the interception of communications, equipment interference and the acquisition and retention of data.”

EARL HOWE

Page 2, line 11, leave out “misfeasance” and insert “misconduct”

Clause 6

BARONESS HAMWEE
LORD PADDICK

Page 6, line 14, at end insert “subject to any future Act of Parliament providing otherwise.”

Clause 21

EARL HOWE

Page 17, line 31, at end insert –

- “() The fact that the information which would be obtained under a warrant relates to the activities in the British Islands of a trade union is not, of itself, sufficient to establish that the warrant is necessary on grounds falling within subsection (4).”

Clause 31

EARL HOWE

Page 24, line 11, leave out “before the end of the relevant” and insert “during the renewal”

Page 24, line 34, at end insert –

- “() “The renewal period” means –
- (a) in the case of an urgent warrant which has not been renewed, the relevant period;
 - (b) in any other case, the period of 30 days ending with the day at the end of which the warrant would otherwise cease to have effect.”

Page 24, line 46, at end insert –

““urgent warrant” is to be read in accordance with subsection (3) of that section.”

Clause 34

EARL HOWE

Page 27, line 32, leave out “warrant as modified” and insert “modification”

Clause 46

EARL HOWE

Page 36, line 1, at end insert “by means of a telecommunication system”

Clause 50

EARL HOWE

Page 38, line 9, leave out “C” and insert “D”

Clause 50 - continued

Page 38, line 18, at end insert “and which is designated as a relevant international agreement by regulations made by the Secretary of State”

Page 38, line 18, at end insert –

- “() Condition C is that the interception is carried out for the purpose of obtaining information about the communications of an individual –
- (a) who is outside the United Kingdom, or
 - (b) who each of the following persons believes is outside the United Kingdom –
 - (i) the person making the request;
 - (ii) the person carrying out the interception.”

Page 38, line 19, leave out “C” and insert “D”

After Clause 53

BARONESS HAMWEE
LORD PADDICK

Insert the following new Clause –

“Evidence

- (1) The Secretary of State may make regulations enabling material obtained by interception by lawful authority to be put forward as evidence in court proceedings.
- (2) Regulations may not be made under subsection (1) unless the Secretary of State has consulted such persons as the Secretary of State considers appropriate.
- (3) Consultation must, in particular, address mechanisms relating to the disclosure of information on proceedings and their general conduct.”

Before Clause 58

BARONESS HAMWEE
LORD PADDICK

Insert the following new Clause –

“Internet Connection Records

- (1) Nothing in this Act shall permit the retaining by a public authority of internet connection records.
- (2) In this Act “internet connection record” means communications data which –
 - (a) may be used to identify, or assist in identifying, a telecommunications service to which a communication is transmitted by means of a telecommunication system for the purpose of obtaining access to, or running, a computer file or computer program, and

Before Clause 58 - continued

- (b) comprises data generated or processed by a telecommunications operator in the process of supplying the telecommunications service to the sender of the communication (whether or not a person).”

Clause 58

EARL HOWE

Page 46, line 7, at end insert –

“(za) section (*Restrictions in relation to internet connection records*) (restrictions in relation to internet connection records),”

Page 47, line 7, leave out “and proportionate”

Page 47, line 8, leave out “and proportionate”

Page 47, line 33, at end insert –

“() The fact that the communications data which would be obtained in pursuance of an authorisation relates to the activities in the British Islands of a trade union is not, of itself, sufficient to establish that it is necessary to obtain the data for a purpose falling within subsection (7).”

After Clause 58

EARL HOWE

Insert the following new Clause –

“Restrictions in relation to internet connection records

- (1) A designated senior officer of a local authority may not grant an authorisation for the purpose of obtaining data which is, or can only be obtained by processing, an internet connection record.
- (2) A designated senior officer of a relevant public authority which is not a local authority may not grant an authorisation for the purpose of obtaining data which is, or can only be obtained by processing, an internet connection record unless condition A, B or C is met.
- (3) Condition A is that the designated senior officer considers that it is necessary, for a purpose falling within section 58(7), to obtain the data to identify which person or apparatus is using an internet service where –
 - (a) the service and time of use are already known, but
 - (b) the identity of the person or apparatus using the service is not known.
- (4) Condition B is that –
 - (a) the purpose for which the data is to be obtained falls within section 58(7) but is not the purpose falling within section 58(7)(b) of preventing or detecting crime, and
 - (b) the designated senior officer considers that it is necessary to obtain the data to identify –

After Clause 58 - continued

- (i) which internet communications service is being used, and when and how it is being used, by a person or apparatus whose identity is already known,
 - (ii) where or when a person or apparatus whose identity is already known is obtaining access to, or running, a computer file or computer program which wholly or mainly involves making available, or acquiring, material whose possession is a crime, or
 - (iii) which internet service is being used, and when and how it is being used, by a person or apparatus whose identity is already known.
- (5) Condition C is that—
 - (a) the purpose for which the data is to be obtained is the purpose falling within section 58(7)(b) of preventing or detecting crime,
 - (b) the crime to be prevented or detected is serious crime or other relevant crime, and
 - (c) the designated senior officer considers that it is necessary to obtain the data to identify—
 - (i) which internet communications service is being used, and when and how it is being used, by a person or apparatus whose identity is already known,
 - (ii) where or when a person or apparatus whose identity is already known is obtaining access to, or running, a computer file or computer program which wholly or mainly involves making available, or acquiring, material whose possession is a crime, or
 - (iii) which internet service is being used, and when and how it is being used, by a person or apparatus whose identity is already known.
- (6) In subsection (5) “other relevant crime” means crime which is not serious crime but where the offence, or one of the offences, which is or would be constituted by the conduct concerned is—
 - (a) an offence for which an individual who has reached the age of 18 (or, in relation to Scotland or Northern Ireland, 21) is capable of being sentenced to imprisonment for a term of 6 months or more (disregarding any enactment prohibiting or restricting the imprisonment of individuals who have no previous convictions), or
 - (b) an offence—
 - (i) by a person who is not an individual, or
 - (ii) which involves, as an integral part of it, the sending of a communication or a breach of a person’s privacy.
- (7) In this Act “internet connection record” means communications data which—
 - (a) may be used to identify, or assist in identifying, a telecommunications service to which a communication is transmitted by means of a telecommunication system for the purpose of obtaining access to, or running, a computer file or computer program, and
 - (b) comprises data generated or processed by a telecommunications operator in the process of supplying the telecommunications service to the sender of the communication (whether or not a person).”

Clause 59

EARL HOWE

Page 48, line 1, leave out “the interests of national security,” and insert “the investigation or operation concerned is one where there is an exceptional need, in the interests of national security, to keep knowledge of it to a minimum,

- (ba) there is an opportunity to obtain information where—
 - (i) the opportunity is rare,
 - (ii) the time to act is short, and
 - (iii) the need to obtain the information is significant and in the interests of national security,”

Page 48, line 2, leave out “being” and insert “is”

Clause 61

EARL HOWE

Page 49, line 21, after “authorisation” insert “—

- () may cancel it at any time, and
- () ”

Page 49, line 22, leave out from second “the” to end of line 23 and insert “requirements of this Part would not be satisfied in relation to granting an equivalent new authorisation.”

Page 49, line 25, leave out from beginning to end of line 26 and insert “function under subsection (4) is to be exercised where the person who would otherwise have exercised it is no longer available to do so”

Page 49, line 27, leave out “on whom the duty is to fall” and insert “by whom the function is to be exercised”

Clause 63

EARL HOWE

Page 50, line 18, leave out from “the” to “or” in line 19 and insert “requirements of this Part in relation to granting the authorisation are satisfied,”

Clause 64

EARL HOWE

Page 51, line 31, leave out from “the” to “considers” and insert “other requirements of this Part in relation to granting the authorisation are satisfied)”

Clause 80

EARL HOWE

Page 62, line 32, leave out from beginning to “were” and insert “sections 58(3)(za) and (*Restrictions in relation to internet connection records*)”

Clause 83

BARONESS HAMWEE
LORD PADDICK

Page 64, line 15, at end insert –

“() A requirement in a notice may be considered necessary only where there is a reasonable suspicion that a serious criminal offence has been or is likely to be committed.”

EARL HOWE

Page 65, line 20, at end insert –

“() The fact that the data which would be retained under a retention notice relates to the activities in the British Islands of a trade union is not, of itself, sufficient to establish that the requirement to retain the data is necessary for one or more of the purposes falling within paragraphs (a) to (j) of section 58(7).”

Clause 88

EARL HOWE

Page 67, line 34, at end insert –

“() The fact that additional relevant communications data which would be retained under a retention notice as varied relates to the activities in the British Islands of a trade union is not, of itself, sufficient to establish that the requirement to retain the data is necessary for one or more of the purposes falling within paragraphs (a) to (j) of section 58(7).”

Clause 96

BARONESS HAMWEE
LORD PADDICK

Page 73, line 21, at end insert –

“() A warrant may be considered necessary only where there is a reasonable suspicion that a serious criminal offence has been or is likely to be committed.”

EARL HOWE

Page 73, line 26, at end insert –

“() The fact that the information which would be obtained under a warrant relates to the activities in the British Islands of a trade union is not, of itself, sufficient to establish that the warrant is necessary on grounds falling within subsection (5).”

Clause 97

EARL HOWE

Page 74, line 21, at end insert –

- “() The fact that the information which would be obtained under a warrant relates to the activities in the British Islands of a trade union is not, of itself, sufficient to establish that the warrant is necessary as mentioned in subsection (1)(b) or (2)(b).”

Clause 98

EARL HOWE

Page 74, line 38, at end insert –

- “() The fact that the information which would be obtained under a warrant relates to the activities in the British Islands of a trade union is not, of itself, sufficient to establish that the warrant is necessary as mentioned in subsection (1)(a).”

Clause 100

EARL HOWE

Page 75, line 28, at end insert –

- “() The fact that the information which would be obtained under a warrant relates to the activities in the British Islands of a trade union is not, of itself, sufficient to establish that the warrant is necessary as mentioned in subsection (1)(a).”

Clause 102

EARL HOWE

Page 78, line 19, after “must” insert “ –

(a) ”

Page 78, line 20, at end insert “, and

- () consider the matters referred to in subsection (1) with a sufficient degree of care as to ensure that the Judicial Commissioner complies with the duties imposed by section 2 (general duties in relation to privacy).”

Clause 109

EARL HOWE

Page 85, line 7, leave out “before the end of the relevant” and insert “during the renewal”

Page 85, line 42, at end insert –

- “() “The renewal period” means –
- (a) in the case of an urgent warrant which has not been renewed, the relevant period;

Clause 109 - continued

- (b) in any other case, the period of 30 days ending with the day at the end of which the warrant would otherwise cease to have effect.”

Page 86, line 14, at end insert –

““urgent warrant” is to be read in accordance with subsection (3) of that section.”

Clause 114

EARL HOWE

Page 89, line 31, at end insert –

““designated senior official” means a senior official who has been designated by the Secretary of State or (in the case of warrants issued by the Scottish Ministers) the Scottish Ministers for the purposes of this section.”

Clause 131

EARL HOWE

Page 104, line 30, after “must” insert “–

(a) ”

Page 104, line 31, at end insert “, and

- () consider the matters referred to in subsection (1) with a sufficient degree of care as to ensure that the Judicial Commissioner complies with the duties imposed by section 2 (general duties in relation to privacy).”

Clause 133

EARL HOWE

Page 105, line 10, leave out subsection (4) and insert –

- “(4) The operational purposes specified in the warrant must be ones specified, in a list maintained by the heads of the intelligence services (“the list of operational purposes”), as purposes which they consider are operational purposes for which intercepted content or secondary data obtained under bulk interception warrants may be selected for examination.”

Page 105, line 14, leave out from “issued,” to end of line 16 and insert “are specified in the list of operational purposes.

- (5A) An operational purpose may be specified in the list of operational purposes only with the approval of the Secretary of State.
- (5B) The Secretary of State may give such approval only if satisfied that the operational purpose is specified in a greater level of detail than the descriptions contained in section 129(1)(b) or (2).

Clause 133 - continued

- (5C) At the end of each relevant three-month period the Secretary of State must give a copy of the list of operational purposes to the Intelligence and Security Committee of Parliament.
- (5D) In subsection (5C) “relevant three-month period” means –
- (a) the period of three months beginning with the day on which this section comes into force, and
 - (b) each successive period of three months.
- (5E) The Prime Minister must review the list of operational purposes at least once a year.”

Clause 135

EARL HOWE

Page 105, line 31, leave out “before it would otherwise cease to have effect” and insert “during the renewal period”

Page 106, line 10, at end insert –

- “() “The renewal period” means the period of 30 days ending with the day at the end of which the warrant would otherwise cease to have effect.”

Page 106, line 16, at end insert “, but with the omission of paragraph (d) of subsection (1)”

Clause 146

EARL HOWE

Page 115, line 23, at end insert –

- “() The fact that the communications data which would be obtained under a warrant relates to the activities in the British Islands of a trade union is not, of itself, sufficient to establish that the warrant is necessary in the interests of national security or on that ground and a ground falling within subsection (2).”

Clause 147

EARL HOWE

Page 116, line 20, after “must” insert “ –

- (a) ”

Page 116, line 21, at end insert “, and

- () consider the matters referred to in subsection (1) with a sufficient degree of care as to ensure that the Judicial Commissioner complies with the duties imposed by section 2 (general duties in relation to privacy).”

Clause 149

EARL HOWE

Page 117, line 1, leave out subsection (4) and insert –

- “() The operational purposes specified in the warrant must be ones specified, in a list maintained by the heads of the intelligence services (“the list of operational purposes”), as purposes which they consider are operational purposes for which communications data obtained under bulk acquisition warrants may be selected for examination.”

Page 117, line 5, leave out from “issued,” to end of line 7 and insert “are specified in the list of operational purposes.

- (5A) An operational purpose may be specified in the list of operational purposes only with the approval of the Secretary of State.
- (5B) The Secretary of State may give such approval only if satisfied that the operational purpose is specified in a greater level of detail than the descriptions contained in section 146(1)(a) or (2).
- (5C) At the end of each relevant three-month period the Secretary of State must give a copy of the list of operational purposes to the Intelligence and Security Committee of Parliament.
- (5D) In subsection (5C) “relevant three-month period” means –
- (a) the period of three months beginning with the day on which this section comes into force, and
 - (b) each successive period of three months.
- (5E) The Prime Minister must review the list of operational purposes at least once a year.”

Clause 151

EARL HOWE

Page 117, line 22, leave out “before it would otherwise cease to have effect” and insert “during the renewal period”

Page 117, line 43, at end insert –

- “() “The renewal period” means the period of 30 days ending with the day at the end of which the warrant would otherwise cease to have effect.”

Clause 165

EARL HOWE

Page 128, line 23, after “must” insert “ –

- (a) ”

Clause 165 - continued

Page 128, line 24, at end insert “, and

- () consider the matters referred to in subsection (1) with a sufficient degree of care as to ensure that the Judicial Commissioner complies with the duties imposed by section 2 (general duties in relation to privacy).”

Clause 169

EARL HOWE

Page 130, line 22, leave out subsection (5) and insert –

- “(5) The operational purposes specified in the warrant must be ones specified, in a list maintained by the heads of the intelligence services (“the list of operational purposes”), as purposes which they consider are operational purposes for which material obtained under bulk equipment interference warrants may be selected for examination.”

Page 130, line 26, leave out from “issued,” to end of line 28 and insert “are specified in the list of operational purposes.

- (6A) An operational purpose may be specified in the list of operational purposes only with the approval of the Secretary of State.
- (6B) The Secretary of State may give such approval only if satisfied that the operational purpose is specified in a greater level of detail than the descriptions contained in section 164(1)(b) or (2).
- (6C) At the end of each relevant three-month period, the Secretary of State must give a copy of the list of operational purposes to the Intelligence and Security Committee of Parliament.
- (6D) In subsection (6C), “relevant three-month period” means –
 - (a) the period of three months beginning with the day on which this section comes into force, and
 - (b) each successive period of three months.
- (6E) The Prime Minister must review the list of operational purposes at least once a year.”

Clause 171

EARL HOWE

Page 131, line 13, leave out “before the end of the relevant” and insert “during the renewal”

Page 131, line 34, at end insert –

- “() “The renewal period” means –
 - (a) in the case of an urgent warrant which has not been renewed, the relevant period;

Clause 171 - continued

- (b) in any other case, the period of 30 days ending with the day at the end of which the warrant would otherwise cease to have effect.”

Page 132, line 8, at end insert –

“() In this section –

“the relevant period” has the same meaning as in section 170;

“urgent warrant” is to be read in accordance with subsection (3) of that section.”

Clause 182

EARL HOWE

Page 140, line 36, leave out “section” and insert “Part”

After Clause 184

EARL HOWE

Insert the following new Clause –

“Restriction on use of class BPD warrants

- (1) An intelligence service may not retain, or retain and examine, a bulk personal dataset in reliance on a class BPD warrant if the head of the intelligence service considers –
- (a) that the bulk personal dataset consists of, or includes, health records, or
 - (b) that a substantial proportion of the bulk personal dataset consists of sensitive personal data.
- (2) An intelligence service may not retain, or retain and examine, a bulk personal dataset in reliance on a class BPD warrant if the head of the intelligence service considers that the nature of the bulk personal dataset, or the circumstances in which it was created, is or are such that its retention, or retention and examination, by the intelligence service raises novel or contentious issues which ought to be considered by the Secretary of State and a Judicial Commissioner on an application by the head of the intelligence service for a specific BPD warrant.
- (3) In subsection (1) –
- “health records” has the same meaning as in section 187;
 - “sensitive personal data” means personal data consisting of information about an individual (whether living or deceased) which is of a kind mentioned in section 2(a) to (f) of the Data Protection Act 1998.”

Clause 185

EARL HOWE

Page 142, line 23, at end insert –

- “() The fact that a class BPD warrant would authorise the retention, or the retention and examination, of bulk personal datasets relating to activities in the British Islands of a trade union is not, of itself, sufficient to establish that the warrant is necessary on grounds falling within subsection (3)(a).”

Clause 186

EARL HOWE

Page 142, line 38, after “but” insert “either –

- (i) the intelligence service is prevented by section (*Restriction on use of class BPD warrants*)(1) or (2) from retaining, or retaining and examining, the bulk personal dataset in reliance on the class BPD warrant, or
(ii) ”

Page 142, line 45, at end insert –

- “() Where subsection (3)(b)(i) applies, the application must include an explanation of why the intelligence service is prevented by section (*Restriction on use of class BPD warrants*)(1) or (2) from retaining, or retaining and examining, the bulk personal dataset in reliance on a class BPD warrant.”

Page 143, line 22, at end insert –

- “() The fact that a specific BPD warrant would authorise the retention, or the retention and examination, of bulk personal datasets relating to activities in the British Islands of a trade union is not, of itself, sufficient to establish that the warrant is necessary on grounds falling within subsection (5)(a).”

Clause 188

EARL HOWE

Page 144, line 39, after “must” insert “–

- (a) ”

Page 144, line 40, at end insert “, and

- () consider the matters referred to in subsection (1) with a sufficient degree of care as to ensure that the Judicial Commissioner complies with the duties imposed by section 2 (general duties in relation to privacy).”

Clause 189

EARL HOWE

Page 145, line 5, leave out “believed” and insert “considered”

Clause 192

EARL HOWE

Page 147, line 8, leave out subsection (5) and insert –

- “(5) The operational purposes specified in a class BPD warrant or a specific BPD warrant must be ones specified, in a list maintained by the heads of the intelligence services (“the list of operational purposes”), as purposes which they consider are operational purposes for which data contained in bulk personal datasets retained in reliance on class BPD warrants or specific BPD warrants may be selected for examination.”

Page 147, line 12, leave out from “issued,” to end of line 17 and insert “are specified in the list of operational purposes.

- (6A) An operational purpose may be specified in the list of operational purposes only with the approval of the Secretary of State.
- (6B) The Secretary of State may give such approval only if satisfied that the operational purpose is specified in a greater level of detail than the descriptions contained in section 185(3)(a) or (as the case may be) section 186(5)(a).
- (6C) At the end of each relevant three-month period, the Secretary of State must give a copy of the list of operational purposes to the Intelligence and Security Committee of Parliament.
- (6D) In subsection (6C), “relevant three-month period” means –
- (a) the period of three months beginning with the day on which this section comes into force, and
 - (b) each successive period of three months.
- (6E) The Prime Minister must review the list of operational purposes at least once a year.
- (6F) In this Part, “the specified operational purposes”, in relation to a class BPD warrant or a specific BPD warrant, means the operational purposes specified in the warrant in accordance with this section.”

Clause 194

EARL HOWE

Page 147, line 43, leave out “before the end of the relevant” and insert “during the renewal”

Page 148, line 21, at end insert –

- “() “The renewal period” means –
- (a) in the case of an urgent specific BPD warrant which has not been renewed, the relevant period;
 - (b) in any other case, the period of 30 days ending with the day at the end of which the warrant would otherwise cease to have effect.”

Clause 194 - continued

Page 148, line 27, at end insert –

“() In this section –

“the relevant period” has the same meaning as in section 193;

“urgent specific BPD warrant” is to be read in accordance with subsection (3) of that section.”

Clause 202

EARL HOWE

Page 155, line 3, at end insert –

““personal data” has the meaning given by section 182(2);”

Page 155, line 7, at end insert –

““the specified operational purposes” has the meaning given by section 192(6F);”

Clause 203

EARL HOWE

Page 155, line 25, at end insert –

“() A person is not to be appointed as the Investigatory Powers Commissioner unless recommended jointly by –

- (a) the Lord Chancellor,
- (b) the Lord Chief Justice of England and Wales,
- (c) the Lord President of the Court of Session, and
- (d) the Lord Chief Justice of Northern Ireland.

() A person is not to be appointed as a Judicial Commissioner under subsection (1)(b) unless recommended jointly by –

- (a) the Lord Chancellor,
- (b) the Lord Chief Justice of England and Wales,
- (c) the Lord President of the Court of Session,
- (d) the Lord Chief Justice of Northern Ireland, and
- (e) the Investigatory Powers Commissioner.”

Page 155, leave out lines 28 to 30

Page 155, line 33, leave out subsection (4)

Clause 205

EARL HOWE

Page 158, line 44, leave out paragraphs (b) and (c) and insert –

- “(b) dealing with the situation where a warrant issued, or modification made, for what was considered to be an urgent need is not approved,
- (c) reviewing any decisions taken in dealing with the situation mentioned in paragraph (b),
- (d) deciding whether to approve the giving of a notice under section 225 or 226, or
- (e) participating in a review under section 230 or deciding whether to give approval under that section.”

Clause 210

EARL HOWE

Page 163, line 28, at end insert –

- “() information about the operational purposes specified during the year in warrants issued under Part 6 or 7,”

After Clause 211

EARL HOWE

Insert the following new Clause –

“Referrals by the Intelligence and Security Committee of Parliament

- (1) Subsection (2) applies if the Intelligence and Security Committee of Parliament refers a matter to the Investigatory Powers Commissioner with a view to the Commissioner carrying out an investigation, inspection or audit into it.
- (2) The Investigatory Powers Commissioner must inform the Intelligence and Security Committee of Parliament of the Commissioner’s decision as to whether to carry out the investigation, inspection or audit.”

Clause 225

EARL HOWE

Page 174, line 6, leave out “this Act.” and insert “any of the following enactments –

- (a) this Act;
- (b) the Intelligence Services Act 1994;
- (c) the Regulation of Investigatory Powers Act 2000;
- (d) the Regulation of Investigatory Powers (Scotland) Act 2000 (2000 asp 11).”

Page 174, line 10, after “230” insert “and (*Approval of notices following review under section 230*)”

Clause 226

EARL HOWE

Page 175, line 22, after “must” insert “ –
(a) ”

Page 175, line 24, at end insert “, and
() may specify different periods in relation to different steps.”

Page 175, line 28, after “230” insert “and (*Approval of notices following review under section 230*)”

Clause 227

EARL HOWE

Page 175, line 40, after “must” insert “ –
(a) ”

Page 175, line 41, at end insert “, and
() consider the matters referred to in subsection (2) with a sufficient degree of care as to ensure that the Judicial Commissioner complies with the duties imposed by section 2 (general duties in relation to privacy).”

Clause 229

EARL HOWE

Page 177, line 40, leave out “(11)” and insert “(12)”

Clause 230

EARL HOWE

Page 178, line 13, leave out “the Investigatory Powers” and insert “a Judicial”

Page 178, line 29, at end insert –

“() But the Secretary of State may vary the notice, or give a notice under subsection (9)(b) confirming its effect, only if the Secretary of State’s decision to do so has been approved by the Investigatory Powers Commissioner.”

After Clause 230

EARL HOWE

Insert the following new Clause –

“Approval of notices following review under section 230

- (1) In this section “relevant notice” means –
(a) a national security notice under section 225, or

After Clause 230 - continued

- (b) a technical capability notice under section 226.
- (2) In deciding whether to approve a decision to vary a relevant notice as mentioned in section 230(9)(a), or to give a notice under section 230(9)(b) confirming the effect of a relevant notice, the Investigatory Powers Commissioner must review the Secretary of State's conclusions as to the following matters –
- (a) whether the relevant notice as varied or confirmed is necessary as mentioned in section 225(1)(a) or (as the case may be) section 226(1)(a), and
 - (b) whether the conduct required by the relevant notice, as varied or confirmed, is proportionate to what is sought to be achieved by that conduct.
- (3) In doing so, the Investigatory Powers Commissioner must –
- (a) apply the same principles as would be applied by a court on an application for judicial review, and
 - (b) consider the matters referred to in subsection (2) with a sufficient degree of care as to ensure that the Investigatory Powers Commissioner complies with the duties imposed by section 2 (general duties in relation to privacy).
- (4) Where the Investigatory Powers Commissioner refuses to approve a decision to vary a relevant notice as mentioned in section 230(9)(a), or to give a notice under section 230(9)(b) confirming the effect of a relevant notice, the Investigatory Powers Commissioner must give the Secretary of State written reasons for the refusal.”

Clause 236

EARL HOWE

Page 187, line 33, at end insert “(and paragraph 4A of Schedule 9)”

Clause 238BARONESS HAMWEE
LORD PADDICK

Page 189, line 7, at end insert –

“() section (*Evidence*),

EARL HOWE

Page 189, line 26, at end insert –

“() regulations under section 50(3),”

Schedule 8

EARL HOWE

Page 231, line 20, at end insert –

“() the duties imposed by section 2 (general duties in relation to privacy);”

Schedule 9

EARL HOWE

Page 236, line 29, at end insert –

“Definitions of “other relevant crime” and “serious crime”

4A(1) The definitions of –

- (a) “other relevant crime” in section (*Restrictions in relation to internet connection records*)(6), and
- (b) “serious crime” in section 235(1),

are to be read, until the appointed day, as if for the words “the age of 18 (or, in relation to Scotland or Northern Ireland, 21)” there were substituted “the age of 21”.

- (2) In sub-paragraph (1), “the appointed day” means the day on which the amendment made to section 81(3)(a) of the Regulation of Investigatory Powers Act 2000 by paragraph 211 of Schedule 7 to the Criminal Justice and Court Services Act 2000 comes into force.”

Schedule 10

EARL HOWE

Page 243, line 5, at end insert –

“Immigration Act 2016

In section 7(2)(b) of the Immigration Act 2016 (information gateways: supplementary) for “Part 1 of the Regulation of Investigatory Powers Act 2000” substitute “any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016”.”

Investigatory Powers Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE

5 July 2016
