

Investigatory Powers Bill

RUNNING LIST OF ALL AMENDMENTS IN COMMITTEE

Tabled up to and including

6 July 2016

[Sheets HL Bill 40(a) to (d)]

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.”

Clause 1 - continued

EARL HOWE

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

Clause 2

BARONESS HAMWEE

LORD PADDICK

Page 2, line 35, leave out from “authority” to end of line 46 and insert “takes any decision or undertakes any action under this Act.”

Page 2, line 47, after “have” insert “particular”

LORD PADDICK

BARONESS HAMWEE

Page 3, line 5, at end insert –

“() the requirements of the Human Rights Act 1998.”

BARONESS HAMWEE

LORD PADDICK

Page 3, line 7, leave out from “context” to end of line 9 and insert –

“() The public authority must have regard to other considerations that are also relevant in the context.”

Page 3, line 10, leave out “may, in particular, include” and insert “are”

Page 3, line 12, at end insert “so far as the interests of economic well-being are relevant to the interests of national security,”

LORD PADDICK

BARONESS HAMWEE

Page 3, line 19, leave out paragraph (d)

After Clause 2

BARONESS HAMWEE

LORD PADDICK

Insert the following new Clause –

“Privacy and Civil Liberties Board

The Secretary of State must make and bring into force regulations under section 46 of the Counter-Terrorism and Security Act 2015 (privacy and civil liberties board) prior to the day on which section 2 comes into force.”

Clause 4

LORD PADDICK
BARONESS HAMWEE

Page 4, line 23, leave out “, at a relevant time,”

Clause 6

BARONESS HAMWEE
LORD PADDICK

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

Page 6, line 19, leave out “all purposes” and insert “the purposes of this Act”

Clause 13

BARONESS HAMWEE
LORD PADDICK

Page 10, line 16, leave out “the intelligence service considers that”

Clause 14

BARONESS HAMWEE
LORD PADDICK

Page 11, line 8, leave out “the applicant considers that”

Clause 17

LORD PADDICK
BARONESS HAMWEE

Page 13, line 31, leave out “or organisation”

Page 13, line 36, after “activity” insert “where each person is named or identified using a unique identifier”

Page 13, line 37, leave out “or organisation”

Page 13, line 39, after “operation” insert “where each person is named or identified using a unique identifier”

Page 13, line 40, leave out paragraph (c)

Page 13, line 41, leave out subsection (3)

Clause 20

BARONESS HAMWEE
LORD PADDICK

Page 16, line 11, at end insert –

“() A warrant may be considered necessary for the reasons given in subsections (2)(b) or (3) only where there is a reasonable suspicion that a serious criminal offence has been or is likely to be committed.”

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 23

LORD PADDICK
BARONESS HAMWEE

Page 18, line 28, leave out “review the person’s conclusions as to” and insert “determine”

Page 18, line 34, at end insert –

“(za) consider the reasons for the decision given by the person who made it,”

Page 18, line 35, leave out paragraph (a)

Page 18, line 35, at beginning insert “subject to paragraph (za),”

Clause 24

BARONESS HAMWEE
LORD PADDICK

Page 19, line 19, leave out “working”

Clause 27

LORD PANNICK
LORD LESTER OF HERNE HILL

Page 21, line 6, after “items” insert “presumptively”

Page 21, line 11, after “items” insert “presumptively”

Clause 27 - continued

Page 21, line 15, leave out paragraph (a) and insert –

- “(a) that compelling evidence indicates that the items in question consist of, or relate to, communications made for a criminal purpose such that it is necessary to authorise the interception, or (in the case of a targeted examination warrant) selection for examination, of those items, and”

Page 21, line 38, at end insert –

- “() An application to which subsections (2) and (3), or (5) and (6), apply is to be made to and determined by a Judicial Commissioner; and accordingly, in relation to such an application and to any resulting warrant –
- (a) sections 19 to 21 (issue of warrants), 31 (renewal of warrants), 37 (cancellation of warrants) and 38 (certain mutual assistance warrants) apply as if references to the Secretary of State, the Scottish Ministers, and a senior official acting on behalf of, or designated by, the Secretary of State or the Scottish Ministers, in their respective decision-making capacities under those provisions, were references to a Judicial Commissioner,
 - (b) section 28 (decisions to be taken personally by Ministers) does not apply, and
 - (c) there is no requirement for approval of any such decision of a Judicial Commissioner.”

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 32

LORD PADDICK
BARONESS HAMWEE

Page 25, line 5, at end insert –

“() Any modification to a warrant must be authorised by a Judicial Commissioner.
“

BARONESS HAMWEE
LORD PADDICK

Page 25, line 19, leave out paragraphs (a) and (b) and insert –

- “(a) a modification correcting an error in the description of any item contained in a warrant, or removing any item or factor (but not varying it) is referred to as a “minor modification”, and
(b) a modification which is not a minor modification is referred to as a “major modification”.”

Clause 33

LORD PADDICK
BARONESS HAMWEE

Page 25, line 30, leave out “made” and insert “requested”

Page 25, line 37, leave out “made” and insert “requested”

Page 25, line 44, leave out paragraphs (d) and (e)

Clause 34

LORD PANNICK
LORD LESTER OF HERNE HILL

Page 27, line 16, leave out subsection (6) and insert –

- “(6) Any proposed modification of a warrant –
(a) where section 27 applies to the making of the proposed modification,
(b) in any other case where it appears to the person proposing to make the modification that any communications intercepted, or selected for examination, pursuant to the warrant as modified are likely to include items presumptively subject to legal privilege,
shall be referred to a Judicial Commissioner; and in a case falling within paragraph (b), the Judicial Commissioner shall apply section 27 to the making of the modification.”

EARL HOWE

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

Clause 34 - continued

BARONESS HAMWEE
LORD PADDICK

Page 27, line 39, leave out second “a” and insert “an urgent”

Clause 36

BARONESS HAMWEE
LORD PADDICK

Page 29, line 4, leave out “working”

LORD PADDICK
BARONESS HAMWEE

Page 29, line 6, leave out “As soon as is reasonably practicable” and insert “Within forty-eight hours”

Clause 42

LORD PANNICK
LORD LESTER OF HERNE HILL

Page 34, line 18, at end insert –

“(3) But this section does not authorise interception of a communication containing items presumptively subject to legal privilege.”

Clause 46

EARL HOWE

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

Clause 47

LORD PANNICK
LORD LESTER OF HERNE HILL

Page 36, line 27, at end insert –

“() But nothing in this section, section 48 (interception in psychiatric hospitals, etc.) or in section 49 (interception in immigration detention facilities), authorises interception of a communication containing items presumptively subject to legal privilege.”

Clause 48

BARONESS HAMWEE
LORD PADDICK

The above-named Lords give notice of their intention to oppose the Question that Clause 48 stand part of the Bill.

Clause 49

BARONESS HAMWEE
LORD PADDICK

Page 37, line 44, after “means” insert “, subject to subsection (3)”

Page 38, line 4, at end insert –

- “(3) Rules are only relevant rules for the purposes of this section if they have been designated as such in regulations made by the Secretary of State.
- (4) Regulations under subsection (3) must be made by statutory instrument and may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

The above-named Lords give notice of their intention to oppose the Question that Clause 49 stand part of the Bill.

Clause 50

EARL HOWE

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

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”

LORD PANNICK
LORD LESTER OF HERNE HILL

Page 38, line 20, at end insert –

- “(5) But this section does not authorise interception of a communication containing items presumptively subject to legal privilege.”

Clause 51

LORD PANNICK
LORD LESTER OF HERNE HILL

Page 38, line 28, leave out “and (5) are met in relation” and insert “, (5), (7) and (7A) are met in relation to the execution of the warrant and”

Clause 51 - continued

Page 39, line 32, leave out subsection (7) and insert –

“(7) The requirements of this subsection are that –

- (a) the risk that items subject to legal privilege are intercepted, examined, disclosed, copied or retained is minimised, and
- (b) the extent to which items presumptively subject to legal privilege are intercepted or examined is kept to the minimum necessary to ascertain whether the items are legally privileged.

(7A) The requirements of this subsection in relation to the material obtained under a warrant are that –

- (a) where it appears to the person to whom the warrant is addressed that the material consists of, or includes, an item presumptively subject to legal privilege, that person must not examine (or further examine) the item but must immediately refer it to a Judicial Commissioner, and
- (b) on a reference under paragraph (a), unless compelling evidence indicates that the item consists of, or relates to, a communication made for a criminal purpose, the Judicial Commissioner must order the destruction of the item; and the person to whom the warrant is addressed must immediately comply with the order.”

Page 39, line 40, at end insert –

“but that subsection does not apply insofar as the material consists of, or includes, an item presumptively subject to legal privilege”

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.”

Clause 54

LORD PADDICK
BARONESS HAMWEE

Page 42, line 39, at end insert –

- “() Disclosure of any matter referred to in subsection (2) or (4) shall not be unauthorised if made by the Secretary of State to Parliament to enable Parliament to carry out its functions.”

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
 - (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),”

LORD PADDICK
BARONESS HAMWEE

Page 46, line 40, leave out “, in particular,” and insert “not”

EARL HOWE

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

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

LORD LUCAS

Page 47, line 12, at end insert –

- “() for the purpose of suppressing less serious crimes perpetrated on a large scale using the internet,”

Clause 58 - continued

EARL HOWE

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).”

BARONESS HAMWEE
LORD PADDICK

Page 47, line 33, at end insert –

- “() An authorisation may be considered necessary for the reasons given in subsection (7)(b) or (f) only where there is a reasonable suspicion that a serious criminal offence has been or is likely to be committed.”

LORD PADDICK
BARONESS HAMWEE

Page 47, line 33, at end insert –

- “() It shall not be regarded as necessary and proportionate to obtain data containing the medical records of an individual (other than anonymised records) except for the purposes falling within paragraphs (e), (g), (h) or (i) of 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

After Clause 58 - continued

- (b) 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.
- (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

After 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 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,”

LORD PADDICK
BARONESS HAMWEE

Page 48, line 1, after “the” insert “urgent”

Page 48, line 1, leave out from “security” to end of line 4 and insert –

- “() Subsection (1) shall not apply in a particular case if the designated senior officer considers that the size of the relevant public authority is such that it is not practicable to have a designated senior officer who is not working on the investigation or operation concerned.”

EARL HOWE

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

BARONESS HAMWEE
LORD PADDICK
EARL HOWE

Page 48, line 5, leave out subsections (4) to (6)

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.”

Clause 61 - continued

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,”

LORD PADDICK
BARONESS HAMWEE

The above-named Lords give notice of their intention to oppose the Question that Clause 63 stand part of the Bill.

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)”

LORD PADDICK
BARONESS HAMWEE

The above-named Lords give notice of their intention to oppose the Question that Clause 64 stand part of the Bill.

Clause 65

LORD LUCAS

Page 51, line 37, at end insert –

“() that a full and detailed record is kept of all the authorisations granted under section 63 and of the uses made of them under section 64, including the names of all persons involved, the reasons for actions, and the results obtained,”

Page 52, line 41, at end insert –

“() The Secretary of State must make provision for the independent inspection of the effectiveness and appropriateness of his or her actions under subsections (1) to (6).”

Clause 65 - continued

LORD PADDICK
BARONESS HAMWEE

Page 52, line 42, leave out “significant”

The above-named Lords give notice of their intention to oppose the Question that Clause 65 stand part of the Bill.

Clause 67

LORD PADDICK
BARONESS HAMWEE

Page 53, line 38, leave out “add a public authority to, or”

Page 54, line 6, leave out “becoming, or”

Clause 69

LORD PADDICK
BARONESS HAMWEE

Page 54, line 40, at end insert –

“() representatives of local authorities.”

Clause 75

LORD PADDICK
BARONESS HAMWEE

Page 59, line 22, leave out subsection (5)

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.”

Clause 83 - continued

LORD PADDICK
BARONESS HAMWEE

Page 64, line 24, at end insert –

“() not require a telecommunications operator to retain any third party data, unless that data is retained by the telecommunications operator for its own business purposes.”

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).”

After Clause 95

LORD PADDICK
BARONESS HAMWEE

Insert the following new Clause –

“Security, integrity and privacy

The person making an application for a warrant under this Part must make a detailed assessment of –

- (a) the risk to the security or integrity of systems or networks that the proposed activity may involve;
- (b) the risk to the privacy of persons not being specifically targeted; and
- (c) the steps proposed to be taken to minimise these risks.”

Insert the following new Clause –

“Critical national infrastructure

The person making an application for a warrant under this Part must make a detailed assessment of the risks of the proposed activity to any critical national infrastructure.”

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

LORD PADDICK
BARONESS HAMWEE

Page 78, line 13, leave out “review the person’s conclusions as to” and insert “determine”

Clause 102 - continued

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;
- (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.”

After Clause 125

LORD PADDICK
BARONESS HAMWEE

Insert the following new Clause –

“Authorisations to interfere with property etc

- (1) The Secretary of State may by regulations made by statutory instrument amend the Police Act 1997 to provide that authorisations given under it for placing, using, maintaining or retrieving any equipment, apparatus or device which would enable the interception of any communication is subject to approval equivalent to the approval of warrants under this Part.
- (2) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

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).
- (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.

Clause 133 - continued

- (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

LORD LUCAS

Page 115, line 16, at end insert—

- “() for the purpose of suppressing less serious crimes perpetrated on a large scale using the internet,”

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).”

LORD LUCAS

Page 115, line 36, at end insert—

- “() where speed is of the essence, to collaborate with a person specified in the warrant to source and analyse data in real time,”

Clause 147

EARL HOWE

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

- (a) ”

Clause 147 - continued

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) ”

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”

Clause 171 - continued

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;
- (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

LORD PADDICK
BARONESS HAMWEE

Page 155, line 17, after “The” insert “Lord Chief Justice of England and Wales following consultation with the”

Page 155, line 22, leave out subsection (2)

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.”

Clause 203 - continued

LORD PADDICK
BARONESS HAMWEE

Page 155, line 26, leave out “Prime Minister” and insert “Lord Chief Justice of England and Wales”

EARL HOWE

Page 155, leave out lines 28 to 30

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

LORD PADDICK
BARONESS HAMWEE

Page 156, line 1, leave out subsection (7)

Page 156, line 2, after “decide,” insert “appoint as his or her deputy and”

Page 156, line 3, leave out “any” and insert “one”

Page 156, line 7, leave out from “Commissioner” to end of line 11

After Clause 203

LORD PADDICK
BARONESS HAMWEE

Insert the following new Clause –

“Eligibility of Commissioners

- (1) A person is not to be appointed as the Investigatory Powers Commissioner or as another Judicial Commissioner unless the person holds or has held high judicial office within the meaning of Part 3 of the Constitutional Reform Act 2005.
- (2) The Lord Chancellor shall make such recommendations for Orders in Council under sections 2 and 4 of the Senior Courts Act 1981 as the Lord Chancellor considers necessary to fill appointments under this Part without adversely affecting the operation of the Court of Appeal and the High Court.”

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),

Clause 205 - continued

- (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.”

After Clause 206

LORD PADDICK
BARONESS HAMWEE

Insert the following new Clause—

“Notification by the Investigatory Powers Commissioner

- (1) The Investigatory Powers Commissioner is to notify the subject or subjects of the use of the investigatory functions mentioned in section 205(1) to (3), including—
 - (a) the interception or examination of communications,
 - (b) the retention, accessing or examination of communications data or secondary data,
 - (c) equipment interference,
 - (d) access or examination of data retrieved from a bulk personal dataset,
 - (e) covert human intelligence sources,
 - (f) entry or interference with property.
- (2) The Investigatory Powers Commissioner must only notify subjects of investigatory powers under subsection (1) upon completion of the relevant conduct or the cancellation of the authorisation or warrant.
- (3) The notification under subsection (1) must be sent by writing within 30 days of the completion of the relevant conduct or cancellation of the authorisation or warrant.
- (4) The Investigatory Powers Commissioner must issue the notification under subsection (1) in writing, including details of—
 - (a) the conduct that has taken place,
 - (b) the provisions under which the conduct has taken place, and
 - (c) any known errors that took place within the course of the conduct.
- (5) The Investigatory Powers Commissioner may postpone the notification under subsection (1) beyond the time limit under subsection (3) if the Commissioner assesses that notification may defeat the purposes of an ongoing serious crime or national security operation or investigation.
- (6) The Investigatory Powers Commissioner must consult the person to whom the warrant is addressed in order to fulfil an assessment under subsection (5).”

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 222LORD PADDICK
BARONESS HAMWEE

Page 172, line 3, after “that” insert “, within three months, beginning with the day on which the first provisions of any of Parts 2 to 7 come into force,”

Page 172, line 4, leave out “an appropriate contribution in respect of such” and insert “payment of all”

Page 172, line 5, leave out “the Secretary of State considers” and insert “is”

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 227LORD PADDICK
BARONESS HAMWEE

Page 175, line 34, after “State's” insert “reasons and”

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
 - (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 232LORD PADDICK
BARONESS HAMWEE

Page 179, line 21, leave out “5 years and 6 months” and insert “2 years”

Clause 233LORD PADDICK
BARONESS HAMWEE

Page 180, line 27, after “provided” insert “by that operator”

Clause 235

LORD PANNICK
LORD LESTER OF HERNE HILL

Page 184, line 27, at end insert –

“and for the purposes of this Act only, including the application of paragraphs (a), (b) and (c) of this definition, a “criminal purpose” includes the purpose of –

- (i) doing or facilitating anything involving an imminent threat of death or serious injury or an imminent and serious threat to national security, or
- (ii) concealing, or impeding the detection or prevention of, the doing or facilitation of any of those things,”

Page 184, line 40, at end insert –

““presumptively subject to legal privilege”, in relation to an item, means that disregarding any question of criminal purpose, the item falls to be treated as subject to legal privilege,”

Clause 236

EARL HOWE

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

Clause 238

BARONESS 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),”

Clause 243

LORD PADDICK
BARONESS HAMWEE

Page 192, line 1, after “sections” insert “222, 223,”

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”.”