

Investigatory Powers Bill

MARSHALLED LIST OF MOTIONS AND AMENDMENTS TO BE MOVED ON CONSIDERATION OF COMMONS REASONS

[The page and line references are to HL Bill 40, the bill as first printed for the Lords.]

Clause 8

MOTION A

LORDS AMENDMENT 11

11 Page 7, line 7, leave out “D” and insert “C”

COMMONS REASON

The Commons disagree to Lords Amendment 11 for the following reason –

11A *Because it is consequential on Lords Amendment No. 13 to which the Commons disagree.*

A **Earl Howe to move, That this House do not insist on its Amendment 11, to which the Commons have disagreed for their Reason 11A.**

MOTION B

LORDS AMENDMENT 12

12 Page 7, line 14, at end insert “, or
() in the course of its transmission by means of a public telecommunication system.”

COMMONS REASON

The Commons disagree to Lords Amendment No. 12 for the following reason –

12A *Because it is inappropriate to extend civil liability under clause 8.*

- B** Earl Howe to move, That this House do not insist on its Amendment 12, to which the Commons have disagreed for their Reason 12A.

MOTION C

LORDS AMENDMENT 13

- 13** Page 7, line 15, leave out subsection (4)

COMMONS REASON

The Commons disagree to Lords Amendment No. 13 for the following reason –

- 13A** *Because it is inappropriate to extend civil liability under clause 8.*

- C** Earl Howe to move, That this House do not insist on its Amendment 13, to which the Commons have disagreed for their Reason 13A.

MOTION D

LORDS AMENDMENT 14

- 14** Page 7, line 18, leave out “D” and insert “C”

COMMONS REASON

The Commons disagree to Lords Amendment No. 14 for the following reason –

- 14A** *Because it is consequential on Lords Amendment No. 13 to which the Commons disagree.*

- D** Earl Howe to move, That this House do not insist on its Amendment 14, to which the Commons have disagreed for their Reason 14A.

MOTION E

LORDS AMENDMENT 15

After Clause 8

- 15** Insert the following new Clause –

“Interception without lawful authority: award of costs

- (1) This section applies where –
 - (a) a claim is made under section 8 (civil liability for certain unlawful interceptions) against a person (“the defendant”),
 - (b) the defendant was a relevant publisher at the material time, and
 - (c) the claim is related to the publication of news-related material.
- (2) If the defendant was a member of an approved regulator at the time when the claim was commenced (or was unable to be a member at that time for reasons beyond the defendant’s control or it would have been

unreasonable in the circumstances for the defendant to have been a member at that time), the court must not award costs against the defendant unless satisfied that—

- (a) the issues raised by the claim could not have been resolved by using an arbitration scheme of the approved regulator, or
 - (b) it is just and equitable in all the circumstances of the case to award costs against the defendant.
- (3) If the defendant was not a member of an approved regulator at the time when the claim was commenced (but would have been able to be a member at that time and it would have been reasonable in the circumstances for the defendant to have been a member at that time), the court must award costs against the defendant unless satisfied that—
- (a) the issues raised by the claim could not have been resolved by using an arbitration scheme of the approved regulator (had the defendant been a member), or
 - (b) it is just and equitable in all the circumstances of the case to make a different award of costs or make no award of costs.
- (4) This section is not to be read as limiting any power to make rules of court.
- (5) This section does not apply until such time as a body is first recognised as an approved regulator.
- (6) Subsections (2) and (3) shall apply to any claim issued after this section comes into force.
- (7) For the purposes of this section “approved regulator” shall have the same meaning as in section 42 of the Crime and Courts Act 2013, and “relevant publisher” shall have the same meaning as in section 41 of that Act.”

COMMONS REASON

The Commons disagree to Lords Amendment No. 15 for the following reason –

15A *Because it would not be appropriate to make such provision in relation to claims under clause 8 while consideration is being given to commencing section 40 of the Crime and Courts Act 2013.*

E **Earl Howe to move, That this House do not insist on its Amendment 15, to which the Commons have disagreed for their Reason 15A.**

E1 **Baroness Hollins to move, as an amendment to Motion E, at end insert “, and do propose Amendments 15B and 15C in lieu –**

15B **Insert the following new Clause –**

“Civil liability for certain other unlawful interceptions

- (1) An interception of a communication is actionable at the suit or instance of—
 - (a) the sender of the communication, or
 - (b) the recipient, or intended recipient, of the communication,

if conditions A to C are met.

- (2) Condition A is that the interception is carried out in the United Kingdom.
- (3) Condition B is that the communication is intercepted in the course of its transmission, by means of a public telecommunications system.
- (4) Condition C is that the interception is carried out without lawful authority.
- (5) For the meaning of “interception” and other key expressions used in this section, see sections 4 to 6.”

15C Insert the following new Clause –

“Interception without lawful authority: awards of costs

- (1) This section applies where –
 - (a) a claim is made under section (*Civil liability for certain other unlawful interceptions*) against a person (“the defendant”), or a claim is made for misuse of private information arising from an interception of a communication carried out before the date on which section (*Civil liability for certain other unlawful interceptions*) comes into force,
 - (b) the defendant was a relevant publisher at the material time, and
 - (c) the claim is related to the publication of news-related material.
- (2) If the defendant was a member of an approved regulator at the time when the claim was commenced (or was unable to be a member at that time for reasons beyond the defendant’s control or it would have been unreasonable in the circumstances for the defendant to have been a member at that time), the court must not award costs against the defendant unless satisfied that –
 - (a) the issues raised by the claim could not have been resolved by using an arbitration scheme of the approved regulator, or
 - (b) it is just and equitable in all the circumstances of the case to award costs against the defendant.
- (3) If the defendant was not a member of an approved regulator at the time when the claim was commenced (but would have been able to be a member at that time and it would have been reasonable in the circumstances for the defendant to have been a member at that time), the court must award costs against the defendant unless satisfied that –
 - (a) the issues raised by the claim could not have been resolved by using an arbitration scheme of the approved regulator (had the defendant been a member), or
 - (b) it is just and equitable in all the circumstances of the case to make a different award of costs or make no award of costs.
- (4) This section is not to be read as limiting any power to make rules of court.
- (5) This section does not apply until such time as a body is first recognised as an approved regulator.
- (6) Subsections (1) to (3) shall only apply to a claim issued after this section comes into force.

- (7) For the purposes of this section “approved regulator”, “material time” and “news-related material” shall have the same meaning as in section 42 of the Crime and Courts Act 2013, and “relevant publisher” shall have the same meaning as in section 41 of that Act.””

Clause 243

MOTION F

LORDS AMENDMENT 338

338 Page 191, line 38, leave out “(2) and” and insert “(1A) to”

COMMONS REASON

The Commons disagree to Lords Amendment No. 338 for the following reason –

338A *Because it is consequential on Lords Amendment No. 339 to which the Commons disagree.*

F Earl Howe to move, That this House do not insist on its Amendment 338, to which the Commons have disagreed for their Reason 338A.

F1 Baroness Hollins to move, as an amendment to Motion F, at end insert “, and do propose Amendment 338B in lieu –

338B Page 191, line 38, after “(2)” insert “, (2A)”

MOTION G

LORDS AMENDMENT 339

339 Page 191, line 40, at end insert –

“(1A) Sections 8 and (*Interception without lawful authority: award of costs*) come into force on the day following that on which this Act is passed.”

COMMONS REASON

The Commons disagree to Lords Amendment No. 339 for the following reason –

339A *Because it is inappropriate for clauses 8 and 9 to come into force before the other provisions of the Bill relating to interception.*

G Earl Howe to move, That this House do not insist on its Amendment 339, to which the Commons have disagreed for their Reason 339A.

G1 Baroness Hollins to move, as an amendment to Motion G, at end insert “, and do

propose Amendments 339B and 339C in lieu –

339B Page 192, line 2, at end insert –

“(2A) Sections (*Civil liability for certain other unlawful interceptions*) and (*Interception without lawful authority: awards of costs*) come into force on the day following that on which this Act is passed.

339C Page 192, line 4, at end insert –

“(3A) Sections (*Civil liability for certain other unlawful interceptions*) and (*Interception without lawful authority: awards of costs*) are repealed at the end of the period of six years starting with the day on which they come into force.”

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1st November 2016

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