

Digital Economy Bill

REVISED
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 26th January 2017, as follows –

Clauses 1 to 4	Schedule 4
Schedules 1 to 3	Clauses 87 to 91
Clauses 5 to 86	Title.

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 1

LORD MENDELSON
LORD STEVENSON OF BALMACARA

- 1** Page 1, leave out lines 11 and 12 and insert –
- “(2B) The universal service order shall say that broadband connections and services must be provided –
- (a) with speeds of 2 gigabits or more;
 - (b) with fibre to the premises (FTTP) as a minimum standard;
 - (c) with appropriate measures to ensure that internet speed levels are not affected by high contention ratios;
 - (d) with appropriate measures to ensure service providers run low latency networks.”

LORD FOX
LORD CLEMENT-JONES

- 2** Page 1, leave out lines 11 and 12 and insert –
- “(2B) The universal service order must specify that, by 2020, the following will be available in every household in the United Kingdom –
- (a) download speeds of 30 megabits per second;
 - (b) upload speeds of 6 megabits per second;
 - (c) fast response times;
 - (d) committed information rates of 10 megabits per second;
 - (e) an unlimited usage cap.

Clause 1 - continued

(2BA) The Secretary of State must review the specifications under subsection (2B) annually, and must increase the speeds specified in subsection (2B) as fibre to the premises (FTTP) coverage increases.”

BARONESS BYFORD

3 Page 1, leave out lines 11 and 12 and insert –

“(2B) The universal service order shall say that broadband connections and services must be provided to any extent –

- (a) with speeds of 10 megabits or more;
- (b) with appropriate measures to review paragraph (a) to ensure that internet speed levels reflect technological change and needs;
- (c) with a reasonable cost threshold of £4,000 for users to expect connection under universal service provisions, and a fund established, regulated by OFCOM, to provide individuals with this sum and the ability for this money to be pooled by communities to explore alternative delivery mechanisms.”

BARONESS JANKE

LORD CLEMENT-JONES

4 Page 1, line 12, at end insert –

“(2BA) If the universal service order says that broadband connections and services must be provided to any extent, it must require the provision of a social tariff for broadband services which has the aim of preventing digital exclusion.”

LORD MENDELSON

LORD STEVENSON OF BALMACARA

5 Page 1, line 12, at end insert –

“(2BA) Any excess costs associated with subsection (2B) shall not be paid by users of communication service providers.”

LORD MENDELSON

LORD STEVENSON OF BALMACARA

LORD FOSTER OF BATH

LORD CLEMENT-JONES

6 Page 2, line 2, after “services” insert “and mobile network coverage”

BARONESS BYFORD

7 Page 2, line 15, leave out “may” and insert “must”

LORD FOX

LORD FOSTER OF BATH

8 Page 2, line 23, at end insert –

“72B Universal service order: annual report

- (1) OFCOM must publish an annual report on the implementation of the universal service order for all areas pursuant to the provisions of this Act.

Clause 1 - continued

- (2) The annual report must include information on—
- (a) the number of premises that have been supplied with the minimum download speed as specified by the universal service order;
 - (b) the number of premises that have been required to cover some of the cost of connection;
 - (c) of the premises under subsection (2)(b), the average cost of connection per premises covered by residents, disaggregated by local authority area;
 - (d) the number of premises that have chosen not to be connected via the universal service order after being provided with an estimate;
 - (e) the amount of time on average it takes to provide an estimate and connect a premise, disaggregated by local authority area;
 - (f) the percentage of premises nationally connected via fibre to the premises (FTTP);
 - (g) the take-up of superfast broadband as a proportion of connected premises;
 - (h) the measures taken by OFCOM, Government and others to increase take-up of superfast broadband;
 - (i) the average time taken by named service providers to reconnect broken connections;
 - (j) the number of community schemes set up in that year and the level of subsidy delivered to achieve this; and
 - (k) the extent to which the rights of consumers are explained to them.”

After Clause 1

LORD MENDELSON
LORD STEVENSON OF BALMACARA

9 Insert the following new Clause—

“Review of Broadband Delivery UK

- (1) The Secretary of State shall commission an independent evaluation of the delivery of superfast broadband by Broadband Delivery UK.
- (2) The evaluation under subsection (1) shall consider—
 - (a) the financial impact on customers of a single provider delivering superfast broadband,
 - (b) value-for-money for the taxpayer, and
 - (c) competition in the delivery of superfast broadband.
- (3) The Secretary of State shall lay the report of the review before each House of Parliament by 1 July 2018.”

After Clause 1 - continued

10 Insert the following new Clause—

“SMEs: universal service broadband obligations

The Secretary of State must ensure that small and medium-sized enterprises are prioritised in the roll-out of the universal service broadband obligation.”

11 Insert the following new Clause—

“Duties to progress universal service broadband obligation

Within 12 months of the passing of this Act, the Secretary of State must take steps to ensure that—

- (a) sufficient progress has been made on the universal service broadband obligation to place the United Kingdom in the top decile of countries internationally in respect of broadband speeds;
- (b) a minimum of 90% of United Kingdom premises have access to superfast broadband speeds as defined by OFCOM;
- (c) communications providers deliver the service they have advertised to consumers;
- (d) where a broadband provider fails to supply a user with the broadband speeds it has promised through its advertising, the provider must reimburse the user with automatic compensation.”

12 Insert the following new Clause—

“Universal service broadband obligation: fair and competitive market

The Secretary of State must ensure that rollout of universal service broadband obligations is delivered on a fair and competitive basis.”

13 Insert the following new Clause—

“Broadband universal service obligation: rural areas

In meeting the requirements set out in section 1 of this Act, internet service providers have a duty to build their networks in areas with no or very low broadband coverage before deploying their networks in urban areas.”

After Clause 2

LORD STEVENSON OF BALMACARA
LORD FOSTER OF BATH

14 Insert the following new Clause—

“Bill limits for mobile phone contracts

- (1) A telecommunications service provider supplying a contract relating to a handheld mobile telephone must, at the time of entering into such a contract, allow the end-user the opportunity to place a financial cap on the monthly bill under that contract.
- (2) A telecommunications service provider under subsection (1) must not begin to supply a contracted service to an end-user unless the end-user has either—

After Clause 2 - continued

- (a) requested the monthly cap be put in place and agreed the amount of that cap, or
 - (b) decided, with the decision recorded on a durable medium, not to put a monthly cap in place.
- (3) An end-user may, after the start of the contracted service—
- (a) contact the service provider to require a cap to be put in place and agree the amount of that cap, or
 - (b) require a cap to be removed, with the requirement recorded on a durable medium.
- (4) The end-user should bear no cost for the supply of any service above the cap if the provider has—
- (a) failed to impose a cap agreed under subsection (2)(a) or (3)(a); or
 - (b) removed the cap without the end-user’s express consent, provided on a durable medium as required under subsection (2)(b) or (3)(b).”

LORD MENDELSON
LORD STEVENSON OF BALMACARA

15 Insert the following new Clause—

“General conditions: mobile switching

- (1) Section 51 of the Communications Act 2003 (matters to which general conditions may relate) is amended as follows.
- (2) After subsection (1)(a) insert—
 - “(aa) conditions making such provision as OFCOM consider appropriate for protecting the interests of the end-users of telecommunications service providers supplying a contract relating to a handheld mobile telephone;”.
- (3) In subsection (2), after paragraph (i) (inserted by section 2 of this Act) insert—
 - “(j) specify requirements in relation to arrangements that enable an end user to change mobile service provider on request.”
- (4) The Secretary of State, within 12 months after the passing of this Act, shall prepare and lay a report before each House of Parliament on the enforcement of this section and the consequent impact on end-users.”

Clause 3

LORD MENDELSON
LORD STEVENSON OF BALMACARA

16 Page 2, line 37, after “obligation” insert “within reasonable timescales”

LORD GORDON OF STRATHBLANE

17 Page 2, line 37, after “obligation” insert “, permit the end-user to roam (at no extra charge) to other providers which do meet the specified standard or obligation, or deem the contract to have been terminated by a consistent breach”

Clause 3 - continued

LORD MENDELSON
LORD STEVENSON OF BALMACARA

- 18 Page 2, line 37, at end insert –
 ““(db) require telecommunications service providers supplying a contract relating to a handheld mobile telephone to pay compensation to a user for failing to meet a specified standard or obligation;”.
- () After section 51(2) of that Act insert –
 “(2ZA) A specified standard will include but is not limited to appropriate and satisfactory mobile coverage.””

After Clause 3

LORD MENDELSON
LORD STEVENSON OF BALMACARA

- 19 Insert the following new Clause –
“National roaming
 The Secretary of State may direct OFCOM to vary the licences of UK Mobile Network Operators and require Mobile Network Operators to enable non-seamless national roaming in areas where there is intermittent or no phone signal.”
- 20 Insert the following new Clause –
“Separation of Openreach from BT
 (1) The Secretary of State may direct OFCOM to begin the process of legal separation of Openreach from BT.
 (2) OFCOM, in carrying out its duties under subsection (1), must –
 (a) set a date for the separation,
 (b) conduct a review on the proposed models of separation, and
 (c) prepare and publish an impact assessment outlining the impact OFCOM’s proposals for separation will have on the BT Pension Scheme Trustees, and
 (d) following publication of the impact assessment, take steps to ensure the new Openreach company has adequate working capital, and all equipment and services necessary for it to carry out its functions to the highest standard.
 (3) The Secretary of State must consult OFCOM before giving a direction under this section.”

After Clause 3 - continued

21 Insert the following new Clause –

“Regional competition: broadband universal service obligation

- (1) Where local authorities identify areas of residents and businesses that fail to receive the broadband connections and services required under a universal service order in accordance with section 1, the relevant local authority shall take steps to ensure alternative suppliers are in place to meet those broadband requirements.
- (2) Local authorities in Wales, Northern Ireland and Scotland may publish data on broadband speeds in their area and the extent to which the broadband universal service obligation is met.”

22 Insert the following new Clause –

“Code of practice: business broadband speeds

- (1) The Secretary of State must, after consulting relevant stakeholders, prepare and publish a draft code of practice on business broadband speeds.
- (2) The Secretary of State may, from time to time, after consulting relevant stakeholders, prepare and publish draft revisions to the code of practice.
- (3) The code of practice, and revisions to the code, come into force when the Secretary of State has laid a copy of the draft code, or the draft revisions, before each House of Parliament, and each House has by resolution approved the code or the revisions.
- (4) The code may contain provisions requiring internet service providers to –
 - (a) undertake to provide accurate and transparent speed information on standard business broadband services at point of sale,
 - (b) manage business customers’ speed-related problems,
 - (c) allow customers to exit the contract without penalty if speeds fall below a minimum threshold,
 - (d) take all reasonable measures to provide public office holders with information that is accurate and factual.
- (5) Internet service providers must comply with the code of practice.”

Clause 4

LORD GRANTCHESTER
LORD STEVENSON OF BALMACARA

23 Page 3, line 20, at end insert –

- “() Any rent savings made by mobile network operators as a result of provisions in this section must be invested in efforts to increase geographical coverage.”

After Clause 4

LORD GRANTCHESTER
LORD STEVENSON OF BALMACARA

24 Insert the following new Clause—

“Applications to OFCOM to become beneficiary of code

- (1) The Communications Act 2003 is amended as follows.
- (2) In section 106 (application of the electronic communications code) after subsection (4)(b) insert—
 - “(c) the purposes of the provision by him of a collection of 10 or more land or property rights, the sole purpose of which is to hold such lands and rights for the benefit and use by providers of electronic communications networks to enable the proper and efficient provision of their networks.””

Schedule 1

BARONESS BYFORD

25 Page 93, leave out lines 17 to 19

LORD GRANTCHESTER
LORD STEVENSON OF BALMACARA

26 Page 94, line 3, at end insert—

- “(4) For the avoidance of doubt—
- (a) neither the inclusion of such a building within the meaning of a structure, nor anything else in this code, shall prevent any code right for further electronic communications apparatus being conferred on any operator in respect of the roof or external walls of such building; and
 - (b) any structure, whether or not a building, which would not otherwise be considered electronic communications apparatus, shall not be considered as falling within subparagraph (1)(d) simply by reason of the installation upon that structure of any operator’s electronic communications apparatus under this Code or other lawful agreement.”

LORD FOSTER OF BATH
LORD CLEMENT-JONES

27 Page 95, line 34, at end insert—

- “(e) must be notified to Land Registry, Registers of Scotland or Land and Property Services, whichever is appropriate.”

LORD ASHTON OF HYDE

28 Page 97, leave out lines 11 to 40 and insert—

- “(1) Any agreement under Part 2 of this code is void to the extent that—
- (a) it prevents or limits assignment of the agreement to another operator, or

Schedule 1 - continued

- (b) it makes assignment of the agreement to another operator subject to conditions (including a condition requiring the payment of money).
- (2) Sub-paragraph (1) does not apply to a term that requires the assignor to enter into a guarantee agreement (see sub-paragraph (5B)).
- (3) In this paragraph references to “the assignor” or “the assignee” are to the operator by whom or to whom an agreement under Part 2 of this code is assigned or proposed to be assigned.
- (4) From the time when the assignment of an agreement under Part 2 of this code takes effect, the assignee is bound by the terms of the agreement.
- (5) The assignor is not liable for any breach of a term of the agreement that occurs after the assignment if (and only if), before the breach took place, the assignor or the assignee gave a notice in writing to the other party to the agreement which—
 - (a) identified the assignee, and
 - (b) provided an address for service (for the purposes of paragraph 91(2)(b)) for the assignee.
- (5A) Sub-paragraph (5) is subject to the terms of any guarantee agreement.
- (5B) A “guarantee agreement” is an agreement, in connection with the assignment of an agreement under Part 2 of this code, under which the assignor guarantees to any extent the performance by the assignee of the obligations that become binding on the assignee under sub-paragraph (4)(the “relevant obligations”).
- (5C) An agreement is not a guarantee agreement to the extent that it purports—
 - (a) to impose on the assignor a requirement to guarantee in any way the performance of the relevant obligations by a person other than the assignee, or
 - (b) to impose on the assignor any liability, restriction or other requirement of any kind in relation to a time after the relevant obligations cease to be binding on the assignee.
- (5D) Subject to sub-paragraph (5C), a guarantee agreement may—
 - (a) impose on the assignor any liability as sole or principal debtor in respect of the relevant obligations;
 - (b) impose on the assignor liabilities as guarantor in respect of the assignee’s performance of the relevant obligations which are no more onerous than those to which the assignor would be subject in the event of the assignor being liable as sole or principal debtor in respect of any relevant obligation;
 - (c) make provision incidental or supplementary to any provision within paragraph (a) or (b).”

Schedule 1 - continued

LORD GRANTCHESTER
LORD STEVENSON OF BALMACARA

- 29 Page 97, leave out lines 32 to 37 and insert –
- “() The assignor shall remain liable for all obligations under the agreement and the assignee shall not have the benefit of the agreement until the assignor has given the other party a notice in writing which –
- (a) advises the other party of the assignment;
 - (b) identifies the assignee;
 - (c) provides a valid address in the United Kingdom for the service of notice on the assignee.”

LORD GRANTCHESTER

- 30 Page 98, line 21, at end insert –
- “() The third condition is that the operator has served a written notice on the site provider of the action proposed under this paragraph with sufficient detail for the site provider to understand if it would create an adverse impact or additional burden on the site provider.
- () The operator may proceed with the proposed action –
- (i) after one month if the site provider has not served a counter-notice on the operator within that period identifying that adverse impact or additional burden; or
 - (ii) where the site provider has served a counter-notice, the matter has not been referred to arbitration for determination within one month of the serving of that counter-notice.”

LORD GRANTCHESTER
LORD STEVENSON OF BALMACARA

- 31 Page 100, line 14, after “person” insert “where no subsisting contractual agreement exists”

LORD GRANTCHESTER

- 32 Page 102, line 6, at end insert -
- “(9) Unless and to the extent that the court determines otherwise or the parties agree otherwise the code of practice established under paragraph 103 must be included in the agreement.”

LORD GRANTCHESTER
LORD STEVENSON OF BALMACARA

- 33 Page 102, line 12, after “be)” insert “taking into account all the terms of that agreement save as provided below and assessed at the date the market value is assessed”

- 34 Page 102, line 20, leave out from beginning to end of line 36 and insert –
- “(3) The market value shall take into account as appropriate all relevant factors including –
- (a) the land subject to the agreement for the apparatus;

Schedule 1 - continued

- (b) the line of any power supply to the apparatus with restrictions on use of the land to protect that supply;
 - (c) other facilities associated with the apparatus interfering with the land;
 - (d) rights of access for the operator, and its agents over the land associated with the apparatus and its use;
 - (e) burdens to the site owner consequential upon requirements for greater access;
 - (f) the protection required by the operator for any lines of sight for the apparatus;
 - (g) any detriment to the relevant person's business and other current activity;
 - (h) any detriment to other uses of land owned or occupied by the relevant person.
- (4) In the case of land which an operator demonstrates the intention to use for the first time after the passing of this Act, the market value –
- (a) must be assessed on the basis of the value of the right or agreement to the relevant person; and
 - (b) must not be assessed on the basis of the value to the operator of the right or agreement or having regard to the use which the operator intends to make of the land in question.
- (5) In the case of land used by an operator before the passing of this Act, the market value must be assessed on the basis of the value of the right or agreement to the operator, and having regard to the use which the operator intends to make of the land in question.
- (6) The market value –
- (a) must not be assessed on the basis of the value to the operator of the right or agreement or of the uses by that operator under the right or agreement, and
 - (b) must be assessed on the assumption that paragraphs 15 and 16 (assignment of code rights and upgrading and sharing of apparatus) do not apply to the code right or any electronic communications apparatus to which the code right could apply."

35 Page 102, line 24, leave out "relevant person" and insert "operator"

36 Page 102, line 25, leave out paragraph (b)

LORD ASHTON OF HYDE

37 Page 113, line 15, leave out "or 59(8)"

38 Page 127, line 32, leave out from beginning to end of line 17 on page 128

Schedule 1 - continued

BARONESS BYFORD

39 Page 135, line 19, leave out “three” and insert “eight”

40 Page 135, line 19, leave out “two” and insert “four”

LORD GRANTCHESTER

41 Page 148, line 33, at end insert –

- “() the provision of information by operators to those with an interest in the land on which the communications apparatus is sited;
- () the conduct of negotiations between the parties;
- () the conduct of operators in relation to those with an interest in the land on which the communications apparatus is sited;
- () such other matters as the code adjudicator deems necessary.

LORD GRANTCHESTER
LORD STEVENSON OF BALMACARA

42 Page 148, line 35, at end insert –

- “() The standard terms must include the code of practice by reference as set out in sub-paragraph (1).”

43 Page 148, line 42, after “operators” insert “, representative landowners, third party infrastructure providers”

LORD GRANTCHESTER

44 Page 149, line 4, at end insert –

“Code of Practice Adjudicator

The Secretary of State must appoint a person who shall act as an adjudicator with the powers –

- (a) to determine the validity of complaints as to breaches of the code of practice; and
- (b) on finding a breach of the code of practice, to determine whether it warrants an award of compensation, costs between the parties or a penalty as the adjudicator shall deem appropriate and proportionate.

Status of the Code of Practice

Compliance with the Code shall be a material consideration –

- (a) by the court in considering disputes referred to it under this Schedule as may be relevant to both the determination of the dispute and any ancillary matters including the award of costs between the parties; and
- (b) by the adjudicator in considering any question arising over the grant or retention of a licence to Operator enabling it to have the benefit of Code Rights under this Schedule.”

45 [Retabled as Amendment 229A]

46 [Retabled as Amendment 229B]

Clause 6

LORD GRANTCHESTER
LORD STEVENSON OF BALMACARA

47 Page 4, leave out lines 19 to 24

48 Page 4, leave out lines 27 to 29

Clause 8

BARONESS BYFORD

49 Page 5, line 9, leave out “may” and insert “must”

LORD GRANTCHESTER
LORD STEVENSON OF BALMACARA

50 Page 6, line 5, after “make” insert “written”

51 Page 7, line 21, after “make” insert “written”

52 Page 7, line 29, at end insert –

“(g) specifies a right of appeal which the person has against a decision made by OFCOM.”

BARONESS BYFORD

53 Page 8, line 20, at end insert –

“() In the event that section 53E(4) applies, the penalty shall be levied from the point at which the contravention began.”

After Clause 8

LORD GRANTCHESTER
LORD STEVENSON OF BALMACARA

54 Insert the following new Clause –

“OFCOM power to impose caps upon wireless telegraphy licenses

In paragraph 3 of Schedule 1 to the Wireless Telegraphy Act 2006 (information to be provided in connection with applications), at the end insert “, or

(b) that the applicant owns more than 30% of the total useable mobile phone spectrum in the UK and OFCOM has a reasonable belief that the award of further licences would have a damaging impact upon competition in a given electronic communications market.””

After Clause 14

LORD FOX
LORD CLEMENT-JONES

54A★ Insert the following new Clause –

“Competition in the mobile market

- (1) Within 6 months of the coming into force of this Act, the Secretary of State must commission an evaluation of the distribution of radio spectrum suitable for use for the purpose of mobile telephony.
- (2) The evaluation under subsection (1) must consider –
 - (a) the impact upon competition in the mobile telephony market of the current distribution of spectrum;
 - (b) the impact upon consumers, both financial and in terms of coverage;
 - (c) the efficiency of current spectrum usage; and
 - (d) the impact of preventing any one licence holder from owning more than 30% of the total spectrum useable for mobile telephony.
- (3) The Secretary of State must lay the report of the review before each House of Parliament by 1 July 2018.”

Clause 15

BARONESS JONES OF WHITCHURCH
LORD STEVENSON OF BALMACARA

54B★ Page 18, line 25, at end insert –

“() the overarching duty of care of internet service providers and ancillary service providers and their responsibility to ensure that all reasonable steps are taken to ensure the safety of a child or young person involved in any activity or interaction for which that service provider is responsible.”

54C★ Page 18, line 25, at end insert –

“() The Secretary of State shall by regulations made by statutory instrument lay guidance for the purposes of subsection (3) before both Houses of Parliament.”

After Clause 16

BARONESS JONES OF WHITCHURCH
LORD STEVENSON OF BALMACARA

54D★ Insert the following new Clause –

“Secretary of State: consultation on role of the age-verification regulator

- (1) The Secretary of State must consult all such persons as he or she considers appropriate on the role of the age-verification regulator for the purposes of this Part.
- (2) The consultation must invite consideration of –
 - (a) the person or persons suitable for the role of the age-verification regulator;

After Clause 16 - continued

- (b) the person or persons suitable for the role of issuing financial penalties and enforcement notices to non-compliant websites as set out in sections 20 and 21;
 - (c) the functions of the age-verification regulator;
 - (d) what measures of oversight should be in place to ensure the age-verification regulator is carrying out its functions in an appropriate manner.
- (3) The Secretary of State must lay before each House of Parliament a report on the results of the consultation and the Secretary of State's conclusions on the matters set out in subsection (2).
- (4) Any appointments to be made pursuant to recommendations in the report are subject to approval in each House of Parliament.”

Clause 17

BARONESS HOWE OF IDLICOTE

- 55 Page 19, line 47, leave out from “State” to “as” in line 48 and insert “shall by notice designate the British Board of Film Classification”

BARONESS JONES OF WHITCHURCH
LORD STEVENSON OF BALMACARA

- 55A★ Page 20, line 7, leave out subsection (4) and insert –
- “() The Secretary of State shall by regulations made by statutory instrument specify the independent appeals procedure for the purposes of this section.
 - () 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.
 - () The Secretary of State must not make a designation under this section until appeals procedures are in place.”

Clause 18LORD PADDICK
LORD CLEMENT-JONES

- 55B★ Page 20, line 46, at end insert –
- “() The age-verification regulator must make an annual report to the Secretary of State on the carrying out each year of the arrangements referred to in Part 3 of this Act and in particular on the effectiveness of –
 - (a) the provisions in Part 3 of reducing the number of children under 18 accessing pornographic material online, and
 - (b) the enforcement mechanisms available.
 and on such other matters as the age-verification regulator considers appropriate or the Secretary of State may require.
 - () The Secretary of State must lay a copy of any report made under this section before each House of Parliament.

Clause 20

LORD MORROW
BARONESS HOWE OF IDLICOTE

- 56 Page 21, line 21, at beginning insert “If the person in contravention of section 15(1) is resident in the United Kingdom,”

Clause 21

BARONESS JONES OF WHITCHURCH
LORD STEVENSON OF BALMACARA

- 56A★ Page 23, line 29, leave out subsection (13) and insert—
- “() The Secretary of State must, by regulations made by statutory instrument, lay the guidelines before each House of Parliament.
 - () The initial guidelines may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
 - () Any revision of the guidelines is subject to annulment in pursuance of a resolution of either House of Parliament.”

Clause 22

BARONESS JONES OF WHITCHURCH
LORD STEVENSON OF BALMACARA

- 57 Page 23, line 44, leave out paragraph (b)

LORD MORROW
BARONESS HOWE OF IDLICOTE

- 58 Page 24, line 1, leave out “may” and insert “must”

BARONESS JONES OF WHITCHURCH
LORD STEVENSON OF BALMACARA

- 59 Page 24, line 6, leave out paragraph (b)

- 60 Page 24, line 11, leave out subsection (4)

- 61 Page 24, line 28, leave out “or prohibited material”

- 62 Page 24, line 33, leave out “or prohibited material”

- 62A★ Page 24, line 39, leave out subsection (7) and insert—

- “() The Secretary of State must by regulations made by statutory instrument lay guidance for the purposes of subsections (1) and (6) before each House of Parliament.
- () The first regulations that are made are subject to the affirmative resolution procedure.
- () Any subsequent regulations are subject to the negative resolution procedure.”

Clause 22 - continued

BARONESS BENJAMIN

63 Page 24, line 39, leave out “may” and insert “must”

BARONESS JONES OF WHITCHURCH
LORD STEVENSON OF BALMACARA

64 Page 24, line 42, leave out “or prohibited material”

After Clause 22LORD MORROW
BARONESS HOWE OF IDLICOTE

65 Insert the following new Clause—

“Requirement to cease services to non-complying persons

- (1) Where the age-verification regulator has given notice to a payment-services provider or ancillary service provider under section 22(1), it is the duty of the payment-services provider or ancillary service provider to cease the service provided to the non-complying person.
- (2) That duty is enforceable in civil proceedings by the age-verification regulator—
 - (a) for an injunction;
 - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988; or
 - (c) for any other appropriate relief or remedy.
- (3) In this section, “payment-services provider” and “ancillary service provider” have the same meaning as in section 22.”

Clause 23LORD PADDICK
LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

66 Leave out Clause 23 and insert the following new Clause—

“Court orders

- (1) Where the age-verification regulator considers that a person (“the non-complying person”) is—
 - (a) contravening section 15(1), or
 - (b) making prohibited material available on the internet to persons in the United Kingdom,

the Secretary of State may by regulations make provision about the granting by a court of a blocking injunction in respect of a location on the internet which the court is satisfied has been, is being or is likely to be, used for or in connection with an activity that is contravening, or has contravened, section 15(1) of this Act.

Clause 23 - continued

- (2) “Blocking injunction” means an injunction that requires an internet service provider to prevent its service being used to gain access to a location on the internet.
- (3) Regulations introduced under subsection (1) above must—
 - (a) make provision about the type of locations against which a blocking injunction should be granted;
 - (b) make provision about the circumstances in which an application can be made for a blocking injunction;
 - (c) outline the type of circumstances in which the court will grant a blocking injunction;
 - (d) specify the type of evidence, and other factors, which the court must take into account in determining whether or not to grant a blocking injunction;
 - (e) make provision about the notice, and type of notice, including the form and means, by which a person must receive notice of an application for a blocking injunction made against them;
 - (f) make provision about any other such matters as the Secretary of State considers are necessary in relation to the granting of a blocking injunction by the court; and
 - (g) make provision for a person with a blocking injunction made against them or the site operators or publishers or their customers to appeal the decision to the court.
- (4) Regulations under this subsection must be made by statutory instrument.
- (5) 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.
- (6) In this Part—

“internet service provider” has the same meaning as in section 16 of the Digital Economy Act 2010;

in the application of this Part to Scotland, “injunction” means interdict.”

After Clause 23

LORD ASHTON OF HYDE

67

Insert the following new Clause—

“No power to give notice under section 23(1) where detrimental to national security etc

- (1) Before giving a notice under section 23(1) requiring an internet service provider to—
 - (a) take steps referred to in section 23(2)(c)(i), or
 - (b) put in place arrangements referred to in section 23(2)(c)(ii),
 the regulator must consider whether the steps or arrangements would be likely to be detrimental to a matter mentioned in subsection (3).

After Clause 23 - continued

- (2) The regulator may not give a notice under section 23(1) where it appears to the regulator that the steps or arrangements would be likely to be detrimental to any of those matters.
- (3) The matters are—
 - (a) national security;
 - (b) the prevention or detection of serious crime, within the meaning given in section 263(1) of the Investigatory Powers Act 2016;
 - (c) the prevention or detection of an offence listed in Schedule 3 to the Sexual Offences Act 2003.”

LORD PADDICK
LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

68 Insert the following new Clause—

“Anonymity

- (1) Age-verification providers must be approved by the Age-Verification Regulator.
- (2) In this section an “age-verification provider” means a person who appears to the Age-Verification Regulator to provide, in the course of a business, a service used by a person to ensure that pornographic material is not normally accessible by persons under the age of 18.
- (3) The Age-Verification Regulator must publish a code of practice to be approved by the Secretary of State and laid before Parliament.
- (4) The Code must include provisions to ensure that Age-Verification Providers—
 - (a) perform a Data Protection Impact Assessment and make this publicly available,
 - (b) take full and appropriate measures to ensure the accuracy, security and confidentiality of the data of their users,
 - (c) minimise the processing of personal information to that which is necessary for the purposes of age verification,
 - (d) do not disclose the identity of individuals verifying their age to persons making pornography available on the internet,
 - (e) take full and appropriate measures to ensure that their services do not enable persons making pornography available on the internet to identify users of their sites or services across differing sites or services,
 - (f) do not create security risks for third parties or adversely impact security systems or cyber security,
 - (g) comply with a set standard of accuracy in verifying the age of users.
- (5) The code must include provisions to ensure that publishers of pornographic material take full and appropriate measures to allow their users to choose the Age-Verification Provider of their preference.
- (6) Age-Verification Providers and publishers of pornographic material must comply with the code of practice.

After Clause 23 - continued

- (7) To the extent that a term of a contract purports to prevent or restrict the doing of any act required to comply with the code, that term is unenforceable.”

BARONESS JONES OF WHITCHURCH
LORD STEVENSON OF BALMACARA

68A★ Insert the following new Clause—

“Approval of age-verification providers

- (1) Age-verification providers must be approved by the age-verification regulator.
- (2) In this section an “age-verification provider” means a person who appears to the age-verification regulator to provide, in the course of a business, a service used by a person to ensure that pornographic material is not normally accessible by persons under the age of 18.
- (3) The age-verification regulator must publish a code of practice to be approved by the Secretary of State and laid before Parliament.
- (4) The code must include provisions to ensure that age-verification providers—
 - (a) perform a data protection impact assessment and make this publicly available,
 - (b) take full and appropriate measures to ensure the accuracy, security and confidentiality of the data of their users,
 - (c) minimise the processing of personal information to that which is necessary for the purposes of age-verification,
 - (d) do not disclose the identity of individuals verifying their age to persons making pornography available on the internet,
 - (e) take full and appropriate measures to ensure that their services do not enable persons making pornography available on the internet to identify users of their sites or services across differing sites or services,
 - (f) do not create security risks for third parties or adversely impact security systems or cyber security, and
 - (g) comply with a set standard of accuracy in verifying the age of users.
- (5) The code must include provisions to ensure that publishers of pornographic material take full and appropriate measures to allow their users to choose the age-verification provider of their preference.
- (6) Age-verification providers and publishers of pornographic material must comply with the code of practice.
- (7) To the extent that a term of a contract purports to prevent or restrict the doing of any act required to comply with the code, that term is unenforceable.”

Clause 24

LORD PADDICK
LORD CLEMENT-JONES

69 Page 26, line 47, at end insert –

“() Any person aggrieved (“the appellant”) by an enforcement notice given or financial penalty imposed under section 20, or notice given under section 23, by the age-verification regulator (“the Regulator”) under Part 3 of this Act may appeal against that determination to the Age Verification Committee constituted and acting in accordance with the provisions of Schedule (*Appeals against decision of Age-Verification Regulator*).”

After Clause 26

BARONESS JONES OF WHITCHURCH
LORD STEVENSON OF BALMACARA
BARONESS GRENDER
BARONESS JANKE

70 Insert the following new Clause –

“Review of online abuse

- (1) The Secretary of State must carry out a review of online abuse.
- (2) In conducting the review, the Secretary of State must consult –
 - (a) specialists in child protection;
 - (b) people and organisations who campaign for child safety on the internet; and
 - (c) any other persons and organisations the Secretary of State considers appropriate.
- (3) The Secretary of State must consider measures to prevent online abuse and harassment.
- (4) The Secretary of State must lay a report of the review before each House of Parliament within six months of the passing of this Act.”

BARONESS JONES OF WHITCHURCH
LORD STEVENSON OF BALMACARA
LORD STOREY

71 Insert the following new Clause –

“Internet pornography: requirement to teach age requirement and risks as part of sex education

After section 403(1A)(b) of the Education Act 1996, insert –

“(c) they learn about the risks and dangers of internet pornography, and the legal age requirement to access internet pornography under Part 3 of the Digital Economy Act 2017.””

After Clause 26 - continued

LORD STEVENSON OF BALMACARA
BARONESS JONES OF WHITCHURCH

71A★ Insert the following new Clause –

“Independence of the British Board of Film Classification

- (1) The BBFC is to be a body corporate which is independent from the Government.
- (2) All appointments to the BBFC are to be subject to fair and open competition.”

Clause 27

LORD STEVENSON OF BALMACARA

71B★ Page 28, line 8, at end insert –

“() In section 107 (criminal liability for making or dealing with infringing articles, etc.), after subsection (1) insert –

“(1A) A person commits an offence who –

- (a) manufactures for sale or hire,
 - (b) imports into the United Kingdom otherwise than for his private and domestic use,
 - (c) in the course of a business –
 - (i) sells or lets for hire;
 - (ii) offers or exposes for sale or hire;
 - (iii) advertises for sale or hire or otherwise promotes;
 - (iv) possesses in the course of business with a view to committing any act infringing copyright;
 - (v) installs, maintains or replaces;
 - (vi) distributes; or
 - (d) distributes otherwise than in the course of a business to such an extent as to affect prejudicially the copyright owner,
- any article or related software which is primarily designed, produced, or adapted for, or which is primarily used for, the purpose of enabling or facilitating copyright infringement and which he knows or has reason to believe will be used (whether alone or in conjunction with another article or service) to infringe copyright.”

After Clause 27

LORD CLEMENT-JONES
LORD FOSTER OF BATH

72 Insert the following new Clause –

“Devices or services that infringe copyright

- (1) Section 107 of the Copyright, Designs and Patents Act 1988 (criminal liability for making or dealing with infringing articles, etc) is amended as follows.
- (2) In subsection (1)(d)(ii), after “offers” insert “, advertises”.
- (3) After subsection (1)(d)(iv), insert –
 - “(v) installs, maintains or replaces, or

After Clause 27 - continued

- (vi) otherwise promotes by means of commercial communications, or”.
- (4) After subsection (1)(e), after “article” insert “, device, product or component,”.
- (5) At the end of subsection (1), insert “or which is, and which he knows or has reason to believe is, primarily designed, produced, adapted or otherwise used in a manner described in this section whether alone or in conjunction with another article, device, product, component, or service supplied by or with the knowledge of the same person for the purpose of enabling or facilitating the infringement of copyright”.

Clause 29

LORD CLEMENT-JONES
LORD FOSTER OF BATH
VISCOUNT COLVILLE OF CULROSS

73 Page 29, line 32, leave out subsections (3) to (5)

LORD STEVENSON OF BALMACARA

73A★ Page 29, line 33, at end insert –

- “() Such regulations must require all payments received by the original broadcaster for re-transmission of their material by cable to be reinvested in original British production.”

After Clause 29

LORD CLEMENT-JONES
LORD FOSTER OF BATH
THE EARL OF CLANCARTY

74 Insert the following new Clause –

“Remote e-lending

- (1) Section 5 of the Public Lending Right Act 1979 (citation, etc.) is amended as follows.
- (2) In subsection (2) –
- (a) in the definition of “book” –
- (i) after “(an “audio book”)” insert “which has been licensed by the publisher on agreed terms for library lending”,
- (ii) after “(an “e-book”)” insert “which has been licensed by the publisher on agreed terms for library lending”;
- (b) in the definition of “lent out”, for paragraph (b) substitute –
- “(b) includes communicating by means of electronic transmission to a place other than library premises”.

After Clause 29 - continued

BARONESS JANKE
LORD TOPE

75 Insert the following new Clause—

“Review of sale on the internet of counterfeit electrical appliances

- (1) Within six months of the coming into force of this Act, the Secretary of State must commission a review of the sale on the internet of counterfeit electrical appliances.
- (2) The review must consider whether operators of trading websites that allow individual sellers to use those websites to sell electrical items should be required to report to the police and trading standards authorities any instances of the selling of counterfeit electrical appliances which are arranged through their website.
- (3) The Secretary of State must publish the report of the review, and lay a copy of the report before each House of Parliament.”

76 Insert the following new Clause—

“Report of cost to the United Kingdom economy of sale on the internet of counterfeit electrical goods

- (1) Within six months of the coming into force of this Act, the Secretary of State must prepare a report on the cost to the United Kingdom economy of the sale of counterfeit electrical goods on the internet.
- (2) The report must include an assessment of—
 - (a) the quantity of counterfeit electrical goods being imported into the United Kingdom,
 - (b) the efficacy of the Plugs and Sockets etc. (Safety) Regulations 1994 (SI 1994/1768), and
 - (c) the quantity of counterfeit electrical goods being sold on trading websites.
- (3) The Secretary of State must publish the report, and lay a copy of the report before each House of Parliament.”

LORD FOSTER OF BATH
LORD CLEMENT-JONES

77 Insert the following new Clause—

“Copyright and the role of active hosts

- (1) The Electronic Commerce (EC Directive) Regulations 2002 are amended as follows.
- (2) At the end of Regulation 19 insert—
 - “(2) Where an information society service is storing and providing access to the public copyright protected works, and is playing an active role, including the promotion and optimising the presentation of those works, sub-paragraph (1) shall not apply.

After Clause 29 - continued

- (3) The service provider of an active host under sub-paragraph (2) is required to secure licensing agreements with rightsholders.””

LORD CLEMENT-JONES

LORD FOSTER OF BATH

78 Insert the following new Clause—

“Transparency and fairness obligations

- (1) Authors, artists and performers (“creators”) shall receive on a regular basis timely, adequate and sufficient information on the exploitation of their works and performances from those to whom they have licensed or transferred their rights as well as subsequent transferees or licensees, and the information shall include information on modes of exploitation, revenues generated and remuneration due.
- (2) The obligation in subsection (1) may be met by complying with a code of practice collectively bargained between relevant representative organisations of creators and the representative organisations of those who exploit their works, taking into account the characteristics of each sector for the exploitation of works.
- (3) Any such code of practice is to provide that each creator is to be entitled to a statement of income generated under such licence or transfer arrangements at regular intervals during each annual accounting period, and provide an explanation as to how the creator’s remuneration has been calculated referencing any contract terms relevant to the calculation.
- (4) In the event of failure of a transferee or licensee mentioned in subsection (1) to comply with a code of practice, or in the absence of such a code of practice, the creator shall be entitled to apply to the Intellectual Property Enterprise Court for a detailed account of revenues due to the creator generated from the modes of exploitation referred to in subsection (1), and in the event of failure, the Court may award damages in the amount of any shortfall in the total amount due to him.”

LORD STEVENSON OF BALMACARA

LORD CLEMENT-JONES

LORD FOSTER OF BATH

79 Insert the following new Clause—

“Code of practice on search engines and copyright infringement

- (1) The Secretary of State may impose by order a code of practice (“the code”) for search engine providers with the purpose of minimising the availability and promotion of copyright infringing services, including those which facilitate copyright infringement by their users.
- (2) Any order made under subsection (1) must include appropriate provisions to ensure compliance with the code by the providers.
- (3) Before imposing the code under subsection (1), the Secretary of State shall publish a draft of the code and consider any representations made to him or her by—
 - (a) search engine providers,

After Clause 29 - continued

- (b) rights-holders and their representatives, and
 - (c) any other interested parties.
- (4) The Secretary of State shall regularly review the code to ensure that it provides the most appropriate mechanism to satisfy the purposes set out in subsection (1).”

Clause 30

LORD COLLINS OF HIGHBURY
 LORD STEVENSON OF BALMACARA
 BARONESS JANKE
 LORD CLEMENT-JONES

80 Page 30, line 8, at end insert –

- “() Information disclosed from one specified person to another specified person should be used for the purposes of a specific objective only.
- () Where the information is to be used for purposes other than the specified objective, additional approval must be provided.”

81 Page 30, line 25, leave out “had regard to” and insert “complied with”

After Clause 30

LORD STOREY
 LORD CLEMENT-JONES

82 Insert the following new Clause –

“Disclosure of information by local authorities: free school meals

- (1) The appropriate national authority must make regulations under section 30(6) providing that the disclosure of information held by a local authority to a relevant school to enable them to carry out the duty in section 512 of the Education Act 1996 is a specified objective.
- (2) For the purposes of this section, “disclosure of information” refers to the disclosure of information to a relevant school on the names of –
 - (a) pupils who live within a household that claims council tax benefit;
 - (b) pupils who live within a household that claims housing benefit;
 - (c) pupils who live within a household that claims any other benefits administered by the local authority.
- (3) The objective under subsection (1) may be specified by regulations only if and to the extent that it complies with the condition set in subsection (4).
- (4) The condition is that the disclosure is for the purpose of assisting children eligible for free school meals to have access to the entitlement under section 512 of the Education Act 1996.
- (5) The local authority must provide a relevant school with information which is sufficient to enable them to identify the children who are eligible for free school meals.

After Clause 30 - continued

- (6) For the purposes of this Act, a school is “relevant” to a local authority if that school has on its pupil roll a qualifying child resident within that local authority’s area.
- (7) For the purposes of this Act, a “school” is any local authority maintained school, free school or academy, or voluntary-sector alternative provision working with the local authority.
- (8) Local authorities must provide the means for a parent or guardian of a qualifying child to—
 - (a) be notified before their information is shared for the purposes under this section;
 - (b) opt out of the arrangements in subsections (1) to (4);
 - (c) consider opting in to free school meals at the beginning of each academic year, having previously chosen to opt out.
- (9) Local authorities and schools must take all reasonable steps to preserve the confidentiality and right to privacy of qualifying children and their parents or guardians in respect of the information, information-sharing and administrative arrangements provided.”

Clause 31

LORD COLLINS OF Highbury
 LORD STEVENSON OF BALMACARA
 BARONESS JANKE
 LORD CLEMENT-JONES

83 Page 31, line 36, leave out “had regard to” and insert “complied with”

After Clause 32

LORD ASHTON OF HYDE

83A★ Insert the following new Clause—

“Disclosure of information to water and sewerage undertakers

- (1) If the first and second conditions are met, a specified person may disclose information held by the person in connection with any of the person’s functions to—
 - (a) a water or sewerage undertaker for an area which is wholly or mainly in England, or
 - (b) a water or sewerage undertaker for an area which is wholly or mainly in Wales.
- (2) The first condition is that the disclosure is for the purpose of assisting people living in water poverty by—
 - (a) reducing their water or sewerage costs,
 - (b) improving efficiency in their use of water, or
 - (c) improving their health or financial well-being.

After Clause 32 - continued

- (3) The second condition is that the information is disclosed with the intention that it will be used by the undertaker in connection with provision in the undertaker's charges scheme under section 143 of the Water Industry Act 1991 which is included in that scheme –
 - (a) in compliance with regulations under section 143A of that Act which impose requirements within subsection (2)(d) of that section (power for regulations to require charges schemes to make special provision for particular classes of individual), or
 - (b) by virtue of section 44 of the Flood and Water Management Act 2010 (social tariffs).
- (4) In the case of a person (“P”) who is a specified person merely because of providing services to a public authority, the reference in subsection (1) to the functions of a specified person is limited to the functions P exercises for that purpose.
- (5) For the purposes of this Chapter a person lives in water poverty if the person is a member of a household living on a lower income in a home which –
 - (a) cannot be supplied with water at a reasonable cost, or
 - (b) cannot be supplied with sewerage services at a reasonable cost.”

83B★ Insert the following new Clause –

“Disclosure of information by water and sewerage undertakers

- (1) If the condition in subsection (2) is met, a person to whom information may be disclosed under section (*Disclosure of information to water and sewerage undertakers*) may disclose information held by that person to a specified person.
- (2) That condition is that the disclosure is for the purpose of assisting people living in water poverty in England and Wales by –
 - (a) reducing their water or sewerage costs,
 - (b) improving efficiency in their use of water, or
 - (c) improving their health or financial well-being.”

Clause 33

LORD ASHTON OF HYDE

83C★ Page 32, line 13, leave out “section 30, 31 or 32” and insert “any of sections 30 to (*Disclosure of information by water and sewerage undertakers*)”

LORD COLLINS OF HIGHBURY
LORD STEVENSON OF BALMACARA
BARONESS JANKE
LORD CLEMENT-JONES

84 Page 32, line 15, at end insert –

- “() In addition, in determining whether to make regulations under section 30 or 31, the appropriate national authority must ensure that –

Clause 33 - continued

- (a) the sharing of information authorised by the regulations is limited to what is strictly necessary to fulfil one of the conditions or purposes falling within subsection (2),
 - (b) the conduct authorised by the regulations to achieve the specified objective is proportionate to what is sought to be achieved by that conduct,
 - (c) a Privacy Impact Assessment compliant with the relevant Code of Practice of the Information Commissioner’s Office has taken place and been made publicly available,
 - (d) the proposed measures have been subject to public consultation for a minimum of 12 weeks, and responses have been given conscientious consideration.
- () As soon as is reasonably practicable after the end of three years beginning with the day on which the regulations come into force, the relevant Minister must review the operation of the regulations for the purpose of deciding whether they should be amended or repealed.
- () Before carrying out the review, the relevant Minister must publish the criteria by reference to which that decision will be made.
- () In carrying out the review, the relevant Minister must consult the Information Commissioner, open the review to public consultation for a minimum of 12 weeks and demonstrate that responses have been given conscientious consideration.”

BARONESS BYFORD

85 Page 32, line 21, leave out paragraphs (c) to (f)

LORD ASHTON OF HYDE

86 Page 32, line 31, leave out from “behaviour” to end of line 33 and insert “means conduct that—

- (a) is likely to cause harassment, alarm or distress to any person, or
- (b) is capable of causing nuisance or annoyance to a person in relation to that person’s occupation of residential premises.”

86A★ Page 32, line 35, leave out “or 31” and insert “, 31 or (*Disclosure of information to water and sewerage undertakers*)”

LORD COLLINS OF HIGHBURY
 LORD STEVENSON OF BALMACARA
 BARONESS JANKE
 LORD CLEMENT-JONES

87 Page 32, line 38, at end insert —

- “() A particular person identified in personal information disclosed under section 30, 31 or 32 may request to a specified person, as defined in section 30, that the personal information relating to them is modified and corrected if it contains factual errors.”

Clause 33 - continued

LORD COLLINS OF HIGHBURY
LORD STEVENSON OF BALMACARA

- 88 Page 32, line 40, leave out “(including a body corporate)” and insert “, group of persons, private company or publicly traded company (irrespective of its size or revenue)”

LORD ASHTON OF HYDE

- 88A★ Page 32, line 44, at end insert “or (*Disclosure of information to water and sewerage undertakers*)”

LORD COLLINS OF HIGHBURY
LORD STEVENSON OF BALMACARA
LORD CLEMENT-JONES

- 89 Page 33, line 7, leave out subsection (7)

LORD ASHTON OF HYDE

- 89A★ Page 33, line 7, leave out “section 30, 31 or 32” and insert “any of sections 30 to (*Disclosure of information by water and sewerage undertakers*)”

- 89B★ Page 33, line 12, leave out “section 30, 31 or 32” and insert “sections 30 to (*Disclosure of information by water and sewerage undertakers*)”

- 90 Page 33, line 15, leave out from “by” to end of line 16 and insert “any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.”

- 91 Page 33, line 16, at end insert –

“() Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (8)(b) has effect as if it included a reference to that Part.”

- 91A★ Page 33, line 17, leave out “Section 30, 31 or 32 does” and insert “Sections 30 to (*Disclosure of information by water and sewerage undertakers*) do”

- 91B★ Page 33, line 18, leave out “that section” and insert “those sections”

LORD KIRKWOOD OF KIRKHOPE

- 92 Page 33, line 18, at end insert –

“() Disclosures under section 30, 31 or 32 may be made in order to share the information needed to provide a Warm Home Discount to any Universal Credit or Tax Credit claimant who –

(a) is entitled to receive a Warm Home Discount; and

(b) has a gross annual household income of less than £16,105, and is in receipt of –

(i) Child Tax Credit, or

Clause 33 - continued

(ii) a child element of Universal Credit.”

LORD COLLINS OF HIGHBURY
LORD STEVENSON OF BALMACARA
LORD CLEMENT-JONES

93 Page 33, line 18, at end insert –

“() In its application to a specified person with functions relating to the provision of health services, section 30 does not authorise the disclosure of identifiable health information held by the person in connection with such functions.”

Clause 34

LORD ASHTON OF HYDE

93A★ Page 33, line 20, leave out “section 30, 31 or 32” and insert “any of sections 30 to (*Disclosure of information by water and sewerage undertakers*)”

LORD COLLINS OF HIGHBURY
LORD STEVENSON OF BALMACARA
BARONESS JANKE
LORD CLEMENT-JONES

94 Page 33, line 25, leave out “or permitted”

LORD ASHTON OF HYDE

94A★ Page 33, line 25, leave out “section 30, 31 or 32” and insert “any of sections 30 to (*Disclosure of information by water and sewerage undertakers*)”

LORD COLLINS OF HIGHBURY
LORD STEVENSON OF BALMACARA
BARONESS JANKE
LORD CLEMENT-JONES

95 Page 33, line 33, leave out “made” and insert “necessary”

LORD COLLINS OF HIGHBURY
LORD STEVENSON OF BALMACARA

96 Page 33, line 34, leave out “made” and insert “necessary”

LORD ASHTON OF HYDE

97 Page 33, line 35, at end insert –

“() which is a protected disclosure for any of the purposes of the Employment Rights Act 1996 or the Employment Rights (Northern Ireland) Order 1996 (SI 1996/1919 (NI 16)),
() consisting of the publication of information for the purposes of journalism, where the publication of the information is in the public interest,”

Clause 34 - continued

LORD COLLINS OF HIGHBURY
LORD STEVENSON OF BALMACARA

98 Page 33, line 37, leave out “made” and insert “necessary”

LORD ASHTON OF HYDE

99 Page 33, line 43, leave out from “behaviour” to end of line 45 and insert “means conduct that—

- (a) is likely to cause harassment, alarm or distress to any person, or
- (b) is capable of causing nuisance or annoyance to a person in relation to that person’s occupation of residential premises.”

BARONESS BYFORD

100 Page 34, line 21, leave out subsection (8)

LORD ASHTON OF HYDE

100A★ Page 34, line 22, leave out “or 31” and insert “, 31 or (*Disclosure of information to water and sewerage undertakers*)”

Clause 35

LORD ASHTON OF HYDE

100B★ Page 34, line 25, leave out “or 31” and insert “, 31 or (*Disclosure of information to water and sewerage undertakers*)”

101 Page 34, line 25, leave out “(“P”)”

102 Page 34, leave out lines 26 and 27 and insert “by that person”

After Clause 35

LORD COLLINS OF HIGHBURY
LORD STEVENSON OF BALMACARA
BARONESS JANKE
LORD CLEMENT-JONES

103 Insert the following new Clause—

“Public register of information disclosures

- (1) No disclosure of information by a public authority under Part 5 shall be lawful unless detailed by an entry in a public register.
- (2) Each entry in the register must contain, or include information on—
 - (a) the uniform resource locator of the entry,
 - (b) the purpose of the disclosure,
 - (c) the specific information to be disclosed,
 - (d) the data controllers and data processors involved in the sharing of the information,

After Clause 35 - continued

- (e) any exchange of letters between the data controllers on the disclosure,
 - (f) any other information deemed relevant.
- (3) In this section, “uniform resource locator” means a standardised naming convention for entries made in a public register.”

LORD COLLINS OF HIGHBURY
LORD STEVENSON OF BALMACARA

104 Insert the following new Clause—

“Personal data breaches

- (1) The Data Protection Act 1998 is amended as follows.
- (2) After section 24 insert—

“24A Personal data breaches: notification to the Commissioner

- (1) In this section, section 24B and section 24C “personal data breach” means unauthorised or unlawful processing of personal data or accidental loss or destruction of, or damage to, personal data.
- (2) Subject to subsections (3), (4)(c) and (4)(d), if a personal data breach occurs, the data controller in respect of the personal data concerned in that breach shall, without undue delay, notify the breach to the Commissioner.
- (3) The notification referred to in subsection (2) is not required to the extent that the personal data concerned in the personal data breach are exempt from the seventh data protection principle.
- (4) The Secretary of State may by regulations—
 - (a) prescribe matters which a notification under subsection (2) must contain;
 - (b) prescribe the period within which, following detection of a personal data breach, a notification under subsection (2) must be given;
 - (c) provide that subsection (2) shall not apply to certain data controllers;
 - (d) provide that subsection (2) shall not apply to personal data breaches of a particular description or descriptions.

24B Personal data breaches: notification to the data subject

- (1) Subject to subsections (2), (3), (4), (6)(b) and (6)(c), if a personal data breach is likely to adversely affect the personal data or privacy of a data subject, the data controller in respect of the personal data concerned in that breach shall, without undue delay, notify the breach to the data subject concerned, insofar as it is reasonably practicable to do so.
- (2) The notification referred to in subsection (1) is not required to the extent that the personal data concerned in the personal data breach are exempt from the seventh data protection principle.
- (3) The notification referred to in subsection (1) is not required to the extent that the personal data concerned in the personal data breach are exempt from section 7(1).
- (4) The notification referred to in subsection (1) is not required if the data controller has demonstrated, to the satisfaction of the Commissioner—

After Clause 35 - continued

- (a) that the data controller has implemented appropriate measures which render the data unintelligible to any person who is not authorised to access it; and
 - (b) that those measures were applied to the data concerned in that personal data breach.
- (5) If the data controller has not notified the data subject in compliance with subsection (1), the Commissioner may, having considered the likely adverse effects of the personal data breach, require the data controller to do so.
- (6) The Secretary of State may by regulations –
- (a) prescribe matters which a notification under subsection (1) must contain;
 - (b) provide that subsection (1) shall not apply to certain data controllers;
 - (c) provide that subsection (1) shall not apply to personal data breaches of a particular description or descriptions.

24C Personal data breaches: audit

- (1) Data controllers shall maintain an inventory of personal data breaches comprising –
- (a) the facts surrounding the breach;
 - (b) the effects of that breach; and
 - (c) remedial action taken;
- which shall be sufficient to enable the Commissioner to verify compliance with the provisions of sections 24A and 24B.
- The inventory shall only include information necessary for this purpose.
- (2) The Commissioner may audit the compliance of data controllers with the provisions of sections 24A, 24B and 24C(1).”
- (3) In section 40 (enforcement notices) –
- (a) in subsection (1) –
 - (i) after “data protection principles,” insert “or section 24A, 24B or 24C”;
 - (ii) for “principle or principles” substitute “principle, principles, section or sections”;
 - (b) in subsection (6)(a) after “principles” insert “or the section or sections”.
- (4) In section 41 (cancellation of enforcement notice) –
- (a) in subsection (1) after “principles” insert “or the section or sections”;
 - (b) in subsection (2) after “principles” insert “or the section or sections”.
- (5) In section 41A (assessment notices) –
- (a) in subsection (1) after “data protection principles” insert “or section 24A, 24B or 24C”;
 - (b) in subsection (10)(b) after “data protection principles” insert “or section 24A, 24B or 24C”.
- (6) In section 41C (code of practice about assessment notices) –
- (a) in subsection (4)(a) after “principles” insert “and sections 24A, 24B and 24C”;

After Clause 35 - continued

- (b) in subsection (4)(b) after “principles” insert “or sections”.
- (7) In section 43 (information notices) –
- (a) in subsection (1) –
- (i) after “data protection principles” insert “or section 24A, 24B or 24C”;
- (ii) after “the principles” insert “or those sections”;
- (b) in subsection (2)(b) after “principles” insert “or section 24A, 24B or 24C”.
- (8) In section 55A (power of Commissioner to impose monetary penalty) –
- (a) after subsection (1) insert –
- “(1A) The Commissioner may also serve a data controller with a monetary penalty notice if the Commissioner is satisfied that there has been a serious contravention of section 24A, 24B or 24C by the data controller.”;
- (b) in subsection (3A) after “subsection (1)” insert “or (1A)”;
- (c) in subsection (4) omit “determined by the Commissioner and”;
- (d) in subsection (5) –
- (i) after “The amount” insert “specified in a monetary penalty notice served under subsection (1) shall be”;
- (ii) after “Commissioner” insert “and”;
- (e) after subsection (5) insert –
- “(5A) The amount specified in a monetary penalty notice served under subsection (1A) shall be £1,000.
- (5B) The Secretary of State may by regulations amend subsection (5A) to change the amount specified therein.”
- (9) In section 55B (monetary penalty notices: procedural rights) –
- (a) in subsection (3)(a) omit “and”;
- (b) after subsection (3)(a) insert –
- “(aa) specify the provision of this Act of which the Commissioner is satisfied there has been a serious contravention, and”;
- (c) after subsection (3) insert –
- “(3A) A data controller may discharge liability for a monetary penalty in respect of a contravention of section 24A, 24B or 24C if he pays to the Commissioner the amount of £800 before the time within which the data controller may make representations to the Commissioner has expired.
- (3B) A notice of intent served in respect of a contravention of section 24A, 24B or 24C must include a statement informing the data controller of the opportunity to discharge liability for the monetary penalty.
- (3C) The Secretary of State may by regulations amend subsection (3A) to change the amount specified therein, save that the amount specified in subsection (3A) must be less than the amount specified in section 55A(5A).”;
- (d) in subsection (5) after “served” insert “under section 55A(1)”;

After Clause 35 - continued

- (e) after subsection (5) insert—
“(5A) A person on whom a monetary penalty notice is served under section 55A(1A) may appeal to the Tribunal against the issue of the monetary penalty notice.”
- (10) In section 55C(2)(b) (guidance about monetary penalty notices) at the end insert “specified in a monetary penalty notice served under section 55A(1)”.
- (11) In section 67 (orders, regulations and rules) —
(a) in subsection (4) —
(i) after “order” insert “or regulations”;
(ii) after “section 22(1),” insert “section 24A(4)(c) or (d), 24B(6)(b) or (c),”;
(b) in subsection (5) —
(i) after paragraph (c) insert “(ca) regulations under section 24A(4)(a) or (b) or section 24B(6)(a),”;
(ii) for “(ca) regulations under section 55A(5) or (7) or 55B(3)(b),” substitute “(cb) regulations under section 55A(5), (5B) or (7) or 55B(3)(b) or (3C),”.
- (12) In section 71 (index of defined expressions) after “personal data section 1(1)” insert—
““personal data breach section 24A(1)”.
- (13) In paragraph 1 of Schedule 9 —
(a) after sub-paragraph (1)(a) insert —
“(aa) that a data controller has contravened or is contravening any provision of section 24A, 24B or 24C, or”;
(b) in sub-paragraph (1B) after “principles” insert “or section 24A, 24B or 24C”;
(c) in sub-paragraph (3)(d)(ii) after “principles” insert “or section 24A, 24B or 24C”;
(d) in sub-paragraph (3)(f) after “principles” insert “or section 24A, 24B or 24C.””

LORD ARBUTHNOT OF EDROM
LORD CARLILE OF BERRIEW

105

Insert the following new Clause —

“Cyber-security reporting

- (1) The Companies Act 2006 is amended as follows.
(2) After section 416 insert —

“416A Contents of directors’ report: cyber-security

- (1) The directors of a company must prepare a cyber-security report for each financial year setting out measures the company is taking to address cyber-security risk.
(2) This report should include —
(a) cyber-security audits undertaken by the company,
(b) details of breaches notifiable under the General Data Protection Regulation,

After Clause 35 - continued

- (c) measures in place to ensure the confidentiality and integrity of data processing systems, and
 - (d) processes in place to test and evaluate data protection measures and information technology systems.
- (3) Cyber-security audits must be undertaken by organisations accredited by the Secretary of State.
 - (4) The cyber-security report must be approved by the board of directors and signed on behalf of the board by a director or the secretary of the company.
 - (5) If a report is approved that does not comply with the requirements of this section, the directors commit an offence.
 - (6) A person guilty of an offence under this section is liable on summary conviction to a fine.””

106 Insert the following new Clause—

“Measures to counter cyber-risk

- (1) Organisations in receipt of funds from public authorities must certify the measures in place to test and evaluate against any vulnerabilities in their data protection measures and information systems from cyber-threat.
- (2) Contracting authorities must certify that tenderers have in place processes and systems to test and evaluate any vulnerabilities in their data protection measures and information systems from cyber-threats .”

Clause 36

LORD ASHTON OF HYDE

106A★ Page 34, line 42, leave out “section 30, 31 or 32” and insert “any of sections 30 to (*Disclosure of information by water and sewerage undertakers*)”

LORD COLLINS OF Highbury
LORD STEVENSON OF BALMACARA
BARONESS JANKE
LORD CLEMENT-JONES

107 Page 35, line 4, leave out “have regard to” and insert “comply with”

LORD ASHTON OF HYDE

107A★ Page 35, line 5, leave out “section 30, 31 or 32” and insert “any of sections 30 to (*Disclosure of information by water and sewerage undertakers*)”

BARONESS JANKE
LORD CLEMENT-JONES

108 Page 35, line 7, leave out subsection (4) and insert—

- “(4) As soon as reasonably practicable after issuing or reissuing the code of practice, the relevant Minister must arrange for a copy of it to be laid before, and approved by, a resolution of both Houses of Parliament.”

Clause 36 - continued

LORD COLLINS OF HIGHBURY
 LORD STEVENSON OF BALMACARA
 BARONESS JANKE
 LORD CLEMENT-JONES

109 Page 35, line 15, at end insert –
 “() the public, for a minimum of 12 weeks, and”

110 Page 35, line 16, at end insert –
 “and the relevant Minister must demonstrate that responses have been given conscientious consideration.”

After Clause 36

BARONESS JANKE
 LORD CLEMENT-JONES

111 Insert the following new Clause –
“Notification to the individual of disclosed personal data

- (1) A person specified by the Secretary of State must maintain at all times a secure audit record of all personal information shared in order to fulfil the process of notification to the individual of the personal information pertaining to them which has been shared.
- (2) The audit record shall include –
 - (a) the name of the individual to whom the personal information pertains;
 - (b) details of the personal information shared;
 - (c) the date and time the personal information was shared;
 - (d) the details of the specified person sharing the personal information;
 - (e) the details of the specified person receiving the personal information;
 - and
 - (f) the purpose for which the personal information was obtained.”

Clause 38

LORD ASHTON OF HYDE

112 Page 37, line 36, leave out paragraphs (a) and (b) and insert –
 “() a devolved Welsh authority as defined by section 157A of the Government of Wales Act 2006, or
 () a person providing services to a devolved Welsh authority as defined by that section.”

112A★ Page 38, line 11, at end insert –
 “() References in this Chapter to people living in water poverty are to be construed in accordance with section (*Disclosure of information to water and sewerage undertakers*) (5).”

Clause 39

BARONESS JANKE
LORD CLEMENT-JONES

- 113** Page 38, line 23, leave out from “that” to end of line 26 and insert—
 “(a) the authority or civil registration official to whom it is disclosed (the “recipient”) requires the information to enable the recipient to exercise one or more of the recipient’s functions, and
 (b) the data subjects whose information is being disclosed have given valid consent under data protection legislation.”
- 114** Page 40, line 7, leave out “have regard to” and insert “comply with”
- 115** Page 40, line 18, after “before” insert “, and approved by a resolution of both Houses of,”

BARONESS BYFORD

Baroness Byford gives notice of her intention to oppose the Question that Clause 39 stand part of the Bill.

After Clause 40

BARONESS SCOTT OF NEEDHAM MARKET
LORD CLEMENT-JONES

- 116** Insert the following new Clause—
“Registers under the Births and Deaths Registration Act 1953 to be kept in electronic form
 For section 25 of the Births and Deaths Registration Act 1953 substitute—
“25 Provision of registers, etc, by Registrar General
 Any register required to be kept under the provisions this Act shall be in electronic form and the Registrar General shall provide electronically any of the forms mentioned in this Act for making certified copies of entries held in the registers, which may be required for the purposes of this Act.””

Clause 41

BARONESS JANKE
LORD CLEMENT-JONES

- 117** Page 41, line 41, leave out “had regard to” and insert “complied with”

Clause 42

LORD ASHTON OF HYDE

- 118** Page 42, line 29, leave out from “behaviour” to end of line 31 and insert “means conduct that—
 (a) is likely to cause harassment, alarm or distress to any person, or

Clause 42 - continued

- (b) is capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises."

BARONESS JANKE
LORD CLEMENT-JONES

119 Page 43, line 2, at the end insert –

- "() In addition, in determining whether to make regulations under section 41, the appropriate national authority must ensure that –
- (a) the sharing of information authorised by the regulations is minimised to what is strictly necessary on grounds falling within subsections (2) and (3),
 - (b) the conduct authorised by the regulations to achieve the "specified objective" is proportionate to what is sought to be achieved by that conduct,
 - (c) a Privacy Impact Assessment compliant with the relevant code of practice of the Information Commissioner's Office has taken place and been made publicly available,
 - (d) the proposed measures have been subject to public consultation for a minimum of 12 weeks, and responses have been given conscientious consideration."

LORD ASHTON OF HYDE

120 Page 43, line 10, leave out from "by" to end of line 11 and insert "any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016."

121 Page 43, line 11, at end insert –

- "() Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (8)(b) has effect as if it included a reference to that Part."

Clause 43

BARONESS JANKE
LORD CLEMENT-JONES

122 Page 43, line 20, leave out "or permitted"

123 Page 43, line 27, leave out "made" and insert "necessary"

124 Page 43, line 28, leave out "made" and insert "necessary"

LORD ASHTON OF HYDE

125 Page 43, line 29, at end insert –

- "() which is a protected disclosure for any of the purposes of the Employment Rights Act 1996 or the Employment Rights (Northern Ireland) Order 1996 (SI 1996/1919 (NI 16)),

Clause 43 - continued

- () consisting of the publication of information for the purposes of journalism, where the publication of the information is in the public interest,”

BARONESS JANKE
LORD CLEMENT-JONES

126 Page 43, line 31, leave out “made” and insert “necessary”

127 Page 43, line 33, leave out “made” and insert “necessary”

LORD ASHTON OF HYDE

128 Page 43, line 34, leave out from “behaviour” to end of line 36 and insert “means conduct that –

- (a) is likely to cause harassment, alarm or distress to any person, or
(b) is capable of causing nuisance or annoyance to a person in relation to that person’s occupation of residential premises.”

Clause 44

LORD ASHTON OF HYDE

129 Page 44, line 16, leave out “(“P”)”

130 Page 44, leave out lines 17 and 18 and insert “by that person”

Clause 45

BARONESS JANKE
LORD CLEMENT-JONES

131 Page 44, line 38, leave out “have regard to” and insert “comply with”

LORD STEVENSON OF BALMACARA

132 Page 44, line 40, at end insert –

“(3A) A specified person is required to ensure that he or she complies with the code of practice in respect of any action taken in connection with a debt listed in section 41(3).”

133 Page 44, line 40, at end insert –

“() Any person capable of being a specified person in regulations made under section 41(4) is required to follow the code of practice in respect of any action taken in connection with a debt listed in section 41(3).”

Clause 45 - continued

BARONESS JANKE
LORD CLEMENT-JONES

- 134 Page 44, line 41, leave out subsection (4) and insert –
“(4) Before issuing or reissuing the code of practice, the relevant Minister must arrange for a draft to be laid before, and approved by a resolution of, both Houses of Parliament.”
- 135 Page 44, line 42, at end insert –
“(4A) The code of practice must be subjected to public consultation for a minimum of 12 weeks, and the relevant Minister must demonstrate that responses have been given conscientious consideration.”

Clause 48

LORD ASHTON OF HYDE

- 136 Page 48, line 25, leave out paragraphs (a) and (b) and insert –
“() a devolved Welsh authority as defined by section 157A of the Government of Wales Act 2006, or
() a person providing services to a devolved Welsh authority as defined by that section.”

Clause 49

BARONESS JANKE
LORD CLEMENT-JONES

- 137 Page 49, line 32, leave out “had regard to” and insert “complied with”
- 138 Page 49, line 43, at the end insert –
“() In determining whether to make regulations under subsection (5), the appropriate national authority must ensure that –
(a) the sharing of information authorised by the regulations is minimised to what is strictly necessary on grounds falling within subsections (2) and (3),
(b) the conduct authorised by the regulations to achieve the “specified objective” is proportionate to what is sought to be achieved by that conduct,
(c) a Privacy Impact Assessment compliant with the relevant Code of Practice of the Information Commissioner’s Office has taken place and been made publicly available,
(d) the proposed measures have been subject to public consultation for a minimum of 12 weeks, and responses have been given conscientious consideration.”

Clause 50

LORD ASHTON OF HYDE

- 139** Page 50, line 28, leave out from “behaviour” to end of line 30 and insert “means conduct that—
- (a) is likely to cause harassment, alarm or distress to any person, or
 - (b) is capable of causing nuisance or annoyance to a person in relation to that person’s occupation of residential premises.”
- 140** Page 51, line 8, leave out from “by” to end of line 9 and insert “any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.”
- 141** Page 51, line 9, at end insert—
- “() Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (8)(b) has effect as if it included a reference to that Part.”

Clause 51BARONESS JANKE
LORD CLEMENT-JONES

- 142** Page 51, line 18, leave out “or permitted”
- 143** Page 51, line 25, leave out “made” and insert “necessary”
- 144** Page 51, line 26, leave out “made” and insert “necessary”

LORD ASHTON OF HYDE

- 145** Page 51, line 27, at end insert—
- () which is a protected disclosure for any of the purposes of the Employment Rights Act 1996 or the Employment Rights (Northern Ireland) Order 1996 (SI 1996/1919 (NI 16)),
 - () consisting of the publication of information for the purposes of journalism, where the publication of the information is in the public interest,”

BARONESS JANKE
LORD CLEMENT-JONES

- 146** Page 51, line 29, leave out “made” and insert “necessary”

LORD ASHTON OF HYDE

- 147** Page 51, line 35, leave out from “behaviour” to end of line 37 and insert “means conduct that—
- (a) is likely to cause harassment, alarm or distress to any person, or
 - (b) is capable of causing nuisance or annoyance to a person in relation to that person’s occupation of residential premises.”

Clause 52

LORD ASHTON OF HYDE

- 148 Page 52, line 19, leave out “(“P”)”
- 149 Page 52, leave out lines 20 and 21 and insert “by that person”

Clause 53BARONESS JANKE
LORD CLEMENT-JONES

- 150 Page 52, line 41, leave out “have regard to” and insert “comply with”
- 151 Page 53, line 1, leave out subsection (4) and insert –
“(4) Before issuing or reissuing the code of practice, the relevant Minister must arrange for a draft to be laid before, and approved by a resolution of, both Houses of Parliament.”
- 152 Page 53, line 2, at end insert –
“() The code of practice must be subjected to public consultation for a minimum of 12 weeks, and the relevant Minister must demonstrate that responses have been given conscientious consideration.”

Clause 56

LORD ASHTON OF HYDE

- 153 Page 56, line 22, leave out paragraphs (a) and (b) and insert –
“() a devolved Welsh authority as defined by section 157A of the Government of Wales Act 2006, or
() a person providing services to a devolved Welsh authority as defined by that section.”

Clause 57

LORD ASHTON OF HYDE

- 154 Page 57, line 14, at end insert –
“() Information may be disclosed under subsection (5)(b) –
(a) only with the consent of the Commissioners for Her Majesty’s Revenue and Customs, if it is information to which section 60 (2) applies;
(b) only with the consent of the Welsh Revenue Authority, if it is information to which section (*Information disclosed by the Welsh Revenue Authority*)(5) applies;
(c) only with the consent of Revenue Scotland, if it is information to which section (*Information disclosed by Revenue Scotland*)(5) applies.”

Clause 57 - continued

- 155 Page 57, leave out lines 27 to 30 and insert –
 “() any person (including the public authority) who is involved in processing the information for disclosure under subsection (1);”

BARONESS JANKE
 LORD CLEMENT-JONES

- 156 Page 57, line 34, leave out “has regard to” and insert “comply with”

Clause 58

LORD ASHTON OF HYDE

- 157 Page 58, line 11, leave out from “by” to end of line 12 and insert “any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.”

- 158 Page 58, line 12, at end insert –
 “() Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (2)(b) has effect as if it included a reference to that Part.”

Clause 59

LORD ASHTON OF HYDE

- 159 Page 58, line 28, at end insert –
 “(A1) Subsection (A2) applies to personal information –
 (a) in which the identity of a particular person is specified or from which the identity of a particular person can be deduced, whether from the information itself or from that information taken together with any other published information, and
 (b) which is received by a person (“P”) under section 57 (1)(disclosure for research purposes).
 (A2) Personal information to which this subsection applies may not be disclosed –
 (a) by P, or
 (b) by any other person who has received it directly or indirectly from P.
 (A3) Subsection (A2) does not apply to a disclosure –
 (a) to a person by whom the research referred to in section 57(1) is being or is to be carried out, or
 (b) by a person by whom such research is being or has been carried out –
 (i) for the purposes of enabling anything that is to be published as a result of the research to be reviewed before publication, and
 (ii) to a person who is accredited under section 62 as a person to whom such information may be disclosed for that purpose.”

- 160 Page 58, line 29, leave out “This section” and insert “Subsection (2)”

Clause 59 - *continued*

- 161** Page 58, line 33, leave out “section” and insert “subsection”
- 162** Page 58, line 35, at end insert—
 “() Subsection (2) does not apply to a disclosure—
 (a) under section 57(1) or (5), or
 (b) of information previously disclosed under section 57(1), where the disclosure is made by—
 (i) the person to whom the information was disclosed under that provision, or
 (ii) any person who has received the information directly or indirectly from the person mentioned in sub-paragraph (i),
 (but subsection (A2) may apply to such a disclosure).”
- 163** Page 58, line 36, after “Subsection” insert “(A2) or”
- BARONESS JANKE
LORD CLEMENT-JONES
- 164** Page 58, line 37, leave out “or permitted”
- LORD ASHTON OF HYDE
- 165** Page 58, line 37, leave out “(including section 57(5))”
- BARONESS JANKE
LORD CLEMENT-JONES
- 166** Page 58, line 40, leave out “made” and insert “necessary”
- 167** Page 59, line 1, leave out “made” and insert “necessary”
- 168** Page 59, line 3, leave out “made” and insert “necessary”
- LORD ASHTON OF HYDE
- 169** Page 59, line 5, after “criminal),” insert—
 “() which is a protected disclosure for any of the purposes of the Employment Rights Act 1996 or the Employment Rights (Northern Ireland) Order 1996 (SI 1996/1919 (NI 16)),
 () consisting of the publication of information for the purposes of journalism, where the publication of the information is in the public interest,”
- 170** Page 59, line 16, leave out from “behaviour” to end of line 18 and insert “means conduct that—
 (a) is likely to cause harassment, alarm or distress to any person, or
 (b) is capable of causing nuisance or annoyance to a person in relation to that person’s occupation of residential premises.”

Clause 59 - continued

- 171 Page 59, line 21, after “subsection” insert “(A2) or”
- 172 Page 59, line 40, leave out “57(5)” and insert “57 (1) or (5)”
- 173 Page 59, line 40, at end insert “, the Welsh Revenue Authority or Revenue Scotland”

Clause 60

LORD ASHTON OF HYDE

- 174 Page 59, line 41, at end insert –
 “(A1) Subsection (A2) applies to personal information –
 (a) in which the identity of a particular person is specified or from which the identity of a particular person can be deduced, whether from the information itself or from that information taken together with any other published information, and
 (b) which –
 (i) is disclosed under section 57 (1)(disclosure for research purposes) by the Revenue and Customs, or
 (ii) is disclosed under section 57 (1) by a person other than the Revenue and Customs and is derived from information disclosed under section 57 (5) by the Revenue and Customs,
 and is received by a person (“P”) under section 57(1).
 (A2) Personal information to which this subsection applies may not be disclosed by P.
 (A3) Subsection (A2) does not apply to a disclosure –
 (a) to a person by whom the research referred to in section 57 (1) is being or is to be carried out, or
 (b) by a person by whom such research is being or has been carried out –
 (i) for the purposes of enabling anything that is to be published as a result of the research to be reviewed before publication, and
 (ii) to a person who is accredited under section 62 as a person to whom such information may be disclosed for that purpose.”
- 175 Page 59, line 42, leave out “This section” and insert “Subsection (2)”
- 176 Page 60, line 1, leave out “section” and insert “subsection”
- 177 Page 60, line 3, leave out “directly or indirectly from P” and insert “under section 57 (5)”
- 178 Page 60, line 3, at end insert –
 “() Subsection (2) does not apply to a disclosure under section 57(1).”
- 179 Page 60, line 4, after “Subsection” insert “(A2) or”

Clause 60 - continued

180 Page 60, line 7, after “subsection” insert “(A2) or”

After Clause 60

LORD ASHTON OF HYDE

181 Insert the following new Clause –

“Information disclosed by the Welsh Revenue Authority

- (1) Subsection (2) applies to personal information –
 - (a) in which the identity of a particular person is specified or from which the identity of a particular person can be deduced, whether from the information itself or from that information taken together with any other published information, and
 - (b) which –
 - (i) is disclosed under section 57 (1)(disclosure for research purposes) by the Welsh Revenue Authority, or
 - (ii) is disclosed under section 57 (1) by a person other than the Welsh Revenue Authority and is derived from information disclosed under section 57 (5) by the Welsh Revenue Authority, and is received by a person (“P”) under section 57(1).
- (2) Personal information to which this subsection applies may not be disclosed by P.
- (3) Subsection (2) does not apply to a disclosure –
 - (a) to a person by whom the research referred to in section 57 (1) is being or is to be carried out, or
 - (b) by a person by whom such research is being or has been carried out –
 - (i) for the purposes of enabling anything that is to be published as a result of the research to be reviewed before publication, and
 - (ii) to a person who is accredited under section 62 as a person to whom such information may be disclosed for that purpose.
- (4) Subsection (5) applies to personal information which –
 - (a) identifies a particular person, and
 - (b) is disclosed by the Welsh Revenue Authority under section 57 (5)(disclosure for processing) and received by a person (“P”).
- (5) Personal information to which this subsection applies may not be disclosed –
 - (a) by P, or
 - (b) by any other person who has received it under section 57 (5).
- (6) Subsection (5) does not apply to a disclosure under section 57 (1).
- (7) Subsection (2) or (5) does not apply to a disclosure which is made with the consent of the Welsh Revenue Authority (which may be general or specific).
- (8) A person who contravenes subsection (2) or (5) is guilty of an offence.
- (9) It is a defence for a person charged with an offence under subsection (8) to prove that the person reasonably believed –
 - (a) that the disclosure was lawful, or

After Clause 60 - continued

- (b) that the information had already and lawfully been made available to the public.
- (10) A person who is guilty of an offence under subsection (8) is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine, or to both;
 - (b) on conviction on indictment to imprisonment for a term not exceeding two years, to a fine or to both.
- (11) In the application of subsection (10)(a) to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003 the reference to 12 months is to be read as a reference to 6 months.”

182

Insert the following new Clause—

“Information disclosed by Revenue Scotland

- (1) Subsection (2) applies to personal information—
 - (a) in which the identity of a particular person is specified or from which the identity of a particular person can be deduced, whether from the information itself or from that information taken together with any other published information, and
 - (b) which—
 - (i) is disclosed under section 57 (1)(disclosure for research purposes) by Revenue Scotland, or
 - (ii) is disclosed under section 57 (1) by a person other than Revenue Scotland and is derived from information disclosed under section 57 (5) by Revenue Scotland,
 and is received by a person (“P”) under section 57(1).
- (2) Personal information to which this subsection applies may not be disclosed by P.
- (3) Subsection (2) does not apply to a disclosure—
 - (a) to a person by whom the research referred to in section 57 (1) is being or is to be carried out, or
 - (b) by a person by whom such research is being or has been carried out—
 - (i) for the purposes of enabling anything that is to be published as a result of the research to be reviewed before publication, and
 - (ii) to a person who is accredited under section 62 as a person to whom such information may be disclosed for that purpose.
- (4) Subsection (5) applies to personal information which—
 - (a) identifies a particular person, and
 - (b) is disclosed by Revenue Scotland under section 57 (5)(disclosure for processing) and received by a person (“P”).
- (5) Personal information to which this subsection applies may not be disclosed—
 - (a) by P, or
 - (b) by any other person who has received it under section 57 (5).
- (6) Subsection (5) does not apply to a disclosure under section 57 (1).

After Clause 60 - continued

- (7) Subsection (2) or (5) does not apply to a disclosure which is made with the consent of Revenue Scotland (which may be general or specific).
- (8) A person who contravenes subsection (2) or (5) is guilty of an offence.
- (9) It is a defence for a person charged with an offence under subsection (8) to prove that the person reasonably believed –
 - (a) that the disclosure was lawful, or
 - (b) that the information had already and lawfully been made available to the public.
- (10) A person who is guilty of an offence under subsection (8) is liable –
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both;
 - (b) on conviction on indictment to imprisonment for a term not exceeding two years, to a fine or to both.”

Clause 61

LORD ASHTON OF HYDE

183 Page 60, line 18, after “of” insert “personal”

184 Page 60, line 20, after “of” insert “personal”

BARONESS JANKE
LORD CLEMENT-JONES

185 Page 60, line 24, leave out “have regard to” and insert “comply with”

LORD ASHTON OF HYDE

186 Page 60, line 24, after “disclosing” insert “personal information”

BARONESS JANKE
LORD CLEMENT-JONES

187 Page 60, line 26, leave out “have regard to” and insert “comply with”

LORD ASHTON OF HYDE

188 Page 60, line 29, leave out “or (c)” and insert “, (c) or (ca)”

189 Page 60, line 30, after “using” insert “personal”

BARONESS JANKE
LORD CLEMENT-JONES

190 Page 60, line 41, at end insert –

- “() The code of practice must be subjected to public consultation for a minimum of 12 weeks, and the relevant Minister must demonstrate that responses have been given conscientious consideration.”

Clause 62

LORD ASHTON OF HYDE

- 191 Page 61, line 18, at end insert –
 “(ca) may accredit a person as a person to whom such information may be disclosed for the purposes of a review of the kind mentioned in section 59(A3)(b), 60(A3)(b), (*Information disclosed by the Welsh Revenue Authority*) (3)(b) or (*Information disclosed by Revenue Scotland*) (3)(b),”

- 192 Page 61, line 19, leave out “that section” and insert “section 57 ”

- 193 Page 61, line 23, leave out “or (c)” and insert “, (c) or (ca)”

BARONESS JANKE
 LORD CLEMENT-JONES

- 194 Page 61, line 36, leave out “have regard to” and insert “comply with”

LORD ASHTON OF HYDE

- 195 Page 62, line 11, at end insert “, and
 () a register of persons who are accredited under subsection (1)(ca).”

Clause 65

BARONESS BYFORD

- 196 Page 63, line 18, leave out “A Revenue and Customs official” and insert “The Executive Chair and First Permanent Secretary of HMRC”

Clause 67

LORD ASHTON OF HYDE

- 197 Page 65, line 15, leave out from “by” to “or” in line 16 and insert “any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016,”

- 198 Page 65, line 18, at end insert –
 “() Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (9)(b) has effect as if it included a reference to that Part.”

Clause 68

LORD WILLETTS

- 199 Page 66, line 16, leave out from beginning to end of line 25 on page 67 and insert –
 “(2) Subject to subsection (1) of this section and section 45E, the Board may, by notice in writing to a public authority to which this section applies, require the authority to disclose to the Board information which –
 (a) is held by the authority in connection with its functions, and
 (b) is specified, or is of a kind specified, in the notice.

Clause 68 - *continued*

- (3) A notice under subsection (2) may require information to be disclosed on more than one date specified in the notice within a period specified in the notice.
- (4) A notice under subsection (2) other than one within subsection (3) must specify the date by which or the period within which the information must be disclosed.
- (5) A notice under subsection (2) may specify the form or manner in which the information to which it relates must be disclosed.
- (6) A notice under subsection (2) may require the public authority to consult the Board before making changes to—
 - (a) its processes for collecting, organising, storing or retrieving the information to which the notice relates, or
 - (b) its processes for supplying such information to the Board.
- (7) The reference in subsection (6) to making changes to a process includes introducing or removing a process.
- (8) The Board may give a notice under subsection (2) only if the Board requires the information to which the notice relates to enable it to exercise one or more of its functions.
- (9) The Board must obtain the consent of the Scottish Ministers before giving a notice under subsection (2) to a public authority which is a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998).
- (10) The Board must obtain the consent of the Welsh Ministers before giving a notice under subsection (2) to a public authority which is a Wales public authority as defined by section 157A of the Government of Wales Act 2006.
- (11) The Board must obtain the consent of the Department of Finance in Northern Ireland before giving a notice under subsection (2) to a public authority if—
 - (a) the public authority exercises functions only as regards Northern Ireland, and
 - (b) its functions are wholly or mainly functions which relate to transferred matters (within the meaning of the Northern Ireland Act 1998).
- (12) A public authority to which a notice under subsection (2) is given must comply with it.
- (13) But the public authority need not comply with the notice if compliance—
 - (a) might prejudice national security,
 - (b) would contravene the Data Protection Act 1998,
 - (c) would be prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000, or
 - (d) would contravene directly applicable EU legislation or any enactment to the extent that it implements EU legislation.”

Clause 68 - continued

LORD ASHTON OF HYDE

- 200 Page 66, line 25, leave out from “by” to “or” in line 26 and insert “any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016,”
- 201 Page 66, line 28, at end insert –
“() Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (3)(b) has effect as if it included a reference to that Part.”
- 202 Page 67, line 18, leave out “Wales public authority” and insert “devolved Welsh authority”
- 203 Page 68, line 21, leave out “Wales public authority” and insert “devolved Welsh authority”
- 204 Page 68, line 38, leave out from “by” to “or” in line 39 and insert “any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016,”
- 205 Page 68, line 41, at end insert –
“() Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (13)(c) has effect as if it included a reference to that Part.”
- 206 Page 69, line 25, leave out from “by” to end of line 26 and insert “any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.”
- 207 Page 69, line 26, at end insert –
“() Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (9)(c) has effect as if it included a reference to that Part.”

BARONESS BYFORD

- 208 Page 69, line 30, leave out “any” and insert “a qualifying”
- 209 Page 69, line 36, at end insert –
“(d) a charity with annual income of less than £2.5 million;
(e) a charity which employs fewer than 10 people.”

Clause 69

LORD ASHTON OF HYDE

- 210 Page 72, line 23, at end insert “, or
() the Registrar General for Northern Ireland.”
- 211 Page 73, line 16, leave out from “by” to “or” in line 17 and insert “any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016,”
- 212 Page 73, line 19, at end insert –
“() Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (10)(c) has effect as if it included a reference to that Part.”

After Clause 69

LORD CLEMENT-JONES

- 213 Insert the following new Clause –
- “Provisions that apply to the processing of personal data**
- (1) This section relates to this Part and to the processing of personal data defined by section 1 of the Data Protection Act 1998 (basic interpretative provisions).
 - (2) Where the Information Commissioner is of the view that the processing of personal data which has been shared under the provisions of this Part contravenes Article 8 of the European Convention on Human Rights, the Commissioner may serve an enforcement notice (see section 40 of the Data Protection Act 1998) specifying that fact.
 - (3) Provisions of this Part do not allow personal data which has been shared to be processed as follows –
 - (a) data matching of personal data in order to identify any data subject who can be excluded from any benefit;
 - (b) profiling using personal data in order to target any data subject who can be excluded from any benefit;
 - (c) facilitating a disclosure of a “bulk personal dataset” (whether directly or indirectly) to an “intelligence service” (as described in the Investigatory Powers Act 2016).
 - (4) Any data sharing arrangement (as required by Chapter 14 of the Data Sharing Code of Practice produced by the Information Commissioner) that applies to the disclosure of personal data from a data controller to any “third party” (as defined in section 70(1) of the Data Protection Act 1998) must contain the proposed or estimated benefits associated with the data sharing before any disclosure of personal data occurs, and the data sharing arrangement must describe how these benefits are to be measured or assessed.
 - (5) The Information Commissioner, with respect to an assessment of whether any data sharing arrangement subject to subsection (4) is beneficial, can require the production of –
 - (a) key performance indicators which demonstrate that the benefits associated with any data sharing are being realised by the data sharing;

After Clause 69 - continued

- (b) the costs associated with the data sharing arrangements;
 - (c) the number of data subjects involved; and
 - (d) any other information that the Information Commissioner considers reasonable in order to make an informed and independent assessment of the benefits of data sharing.
- (6) If the benefits associated with data sharing are not being realised, the Information Commissioner can require the sharing to cease by serving an enforcement notice (see section 40 of the Data Protection Act 1998).
- (7) With respect to any data sharing arrangement subject to subsection (4), the provision in section 40(8) of the Data Protection Act 1998 shall be read as if the words “If by reason of special circumstances” were replaced by “If for any reason”.

After Clause 70

LORD LUCAS

214 Insert the following new Clause –

“Evaluation of algorithms

- (1) The Communications Act 2003 is amended as follows.
- (2) After section 134C insert –

*“Evaluation of algorithms***134D Evaluation of algorithms**

- (1) OFCOM may, in the interests of the end users of public electronic communications services, carry out and publish evaluations of algorithms, or of electronic systems embodying algorithms –
 - (a) which are implemented electronically;
 - (b) which impact substantially upon some such users or impact upon a substantial number of such users; and
 - (c) where the details of the algorithm are not freely and publicly available.
- (2) In undertaking such evaluations, OFCOM may –
 - (a) collaborate with any organisation using and affected by the algorithm in question; and
 - (b) act as a “mystery shopper”, using assumed identities and information, despite any and all conditions that may purport to forbid such behaviour.”

Clause 75

LORD FOSTER OF BATH

215 Page 78, line 11, leave out from “appeal,” to end of line 12 and insert “by reference to the grounds of appeal set out in the notice of appeal and taking due account of the merits of the case.”

Clause 75 - continued

- 216** Page 78, line 11, leave out from “appeal,” to end of line 12 and insert “only to the extent that it is satisfied that the decision appealed against was wrong on one or more of the following grounds –
- (a) that the decision was based, wholly or partly, on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that an error was made in the exercise of a discretion;
 - (d) that the decision failed to achieve, in whole or in part, its intended effects;
 - (e) that the decision was based on a judgment or a prediction which OFCOM could not reasonably make; or
 - (f) that a material procedural error was made in the taking of the decision.”

After Clause 76

LORD LESTER OF HERNE HILL
 LORD PANNICK
 LORD INGLEWOOD
 LORD STEVENSON OF BALMACARA

- 217** Insert the following new Clause –

“The BBC Charter: timing

- (1) The Communications Act 2003 is amended as follows.
- (2) After section 198ZA (inserted by section 76 of this Act) insert –

“198ZB The BBC Charter: timing

- (1) The first BBC Charter to be granted following the day on which this Act is passed must have effect for a term of 11 years beginning with the day on which it is granted, and each subsequent BBC Charter must have effect for a term of 10 years beginning with the day on which it is granted.
- (2) In this section “the BBC Charter” has the meaning given by section 362(1) of the Communications Act 2003.””

- 218** Insert the following new Clause –

“The independence and funding of the BBC

- (1) The Communications Act 2003 is amended as follows.
- (2) After section 198ZB (inserted by section *(The BBC Charter: timing)* of this Act) insert –

“198ZC The independence and funding of the BBC

- (1) The BBC is to be independent in all matters concerning the content of its output, the times and manner in which its output is supplied, and the governance and management of its affairs.

After Clause 76 - continued

- (2) The Prime Minister, the Secretary of State, the BBC, OFCOM, and all other persons and bodies with responsibility for matters relating to the governance and establishment of the BBC must ensure that the BBC is able to operate independently from Ministers and other public authorities in the United Kingdom.
- (3) In carrying out the duty in subsection (2)–
 - (a) the Secretary of State and other Ministers of the Crown must not seek to influence the BBC’s decisions; and
 - (b) the Secretary of State must have regard to–
 - (i) the need to defend the BBC’s independence;
 - (ii) the need for the BBC to have the financial and non-financial support necessary to enable it to exercise its functions; and
 - (iii) the need for the public interest to be considered in regard to matters relating to the BBC.
- (4) The Secretary of State must make available to the BBC sufficient funds, through the licence fee and otherwise, to enable the BBC to perform its functions and public purposes as a public service broadcaster.
- (5) The licence fee is to be for the exclusive benefit of and use by the BBC to fund the performance of the BBC’s functions and public purposes.
- (6) The licence fee must be index-linked and increased at least in line with the Consumer Price Index.
- (7) Subject to sections 365 and 365A, the Secretary of State may not transfer to the BBC responsibility, including liability and costs, for any public expenditure.
- (8) Ofcom is to oversee the BBC’s performance of its functions and any increase above the Consumer Price Index in the licence fee.””

219

Insert the following new Clause –

“The governance of the BBC

- (1) The Communications Act 2003 is amended as follows.
- (2) After section 198ZC (inserted by section *(The independence and funding of the BBC)* of this Act) insert –

“198ZD The governance of the BBC

- (1) The BBC is to be governed by an independent board which consists of not more than 14 people with the skill, knowledge and experience needed to perform the board’s functions as public service broadcaster.
- (2) The board is to be appointed in accordance with Schedule 8A.
- (3) The members of the board must be drawn from across the nations and regions of the United Kingdom, and must include BBC licence fee payers and present or former members of staff.
- (4) The process for the appointment of the board members must follow the requirements of the Code of Practice of the Commissioner for Public Appointments, adhering to the principles of merit, openness and fairness, and following the process laid out in Schedule 8A.

After Clause 76 - continued

- (5) Her Majesty in Council may appoint the Chair, on the recommendation of the Prime Minister, following a fair and open competition.
 - (6) The Chair must run a competition for board members and recommend appointments to the Prime Minister, who must advise Her Majesty in Council.
 - (7) The Chief Executive must be a board member and an employee and must be appointed under the process set out in Schedule 8A.
 - (8) The board must carry out its functions in an open and transparent manner.
 - (9) Once per year, the board must publish a recommendation to the Secretary of State on the amount of funding the Secretary of State should make available to the BBC.
 - (10) The Secretary of State must publish a response to each recommendation made under subsection (9).”
- (3) Schedule (*New Schedule 8A to Communications Act 2003*) has effect.”

LORD BEST
LORD INGLEWOOD
BARONESS BONHAM-CARTER OF YARNBURY

220 Insert the following new Clause –

“Duty of OFCOM to make a recommendation on BBC funding

It shall be the duty of OFCOM to make a recommendation to the Secretary of State regarding appropriate levels of BBC funding in respect of the settlement from 1 April 2022.”

221 Insert the following new Clause –

“Duty of Secretary of State to consult and lay recommendation before Parliament

- (1) The Secretary of State shall conduct a full public consultation on appropriate levels of BBC funding.
- (2) The Secretary of State shall lay a report before Parliament with a recommendation as to an appropriate level of funding.”

222 Insert the following new Clause –

“Duty of the Secretary of State in determining funding settlement

- (1) The Secretary of State shall determine the final settlement for BBC funding for the period from 1 April 2022.
- (2) In determining the final settlement, the Secretary of State shall consider whether or not to accept OFCOM’s recommendation and, if the Secretary of State decides to reject that recommendation, the Secretary of State shall publish the reasons for the rejection.
- (3) In determining the final settlement, the Secretary of State shall also take account of –
 - (a) the views of the BBC Board;

After Clause 76 - continued

- (b) the results of the public consultation under section (*Duty of Secretary of State to consult and lay recommendation before Parliament*); and
- (c) the need for effective fulfilment of the BBC's mission and purposes under the Royal Charter."

LORD LESTER OF HERNE HILL
As an amendment to Amendment 222

- 222A★** leave out subsection (2) and insert—
- “(2) The Secretary of State must, by regulations made by statutory instrument, set up an independent body (“the Licence Fee Commission”) with the function of advising the Secretary of State on the final settlement.
 - (2A) In carrying out its functions under subsection (2), the Licence Fee Commission must consult persons or bodies it deems appropriate and, on the basis of that consultation, make a recommendation to the Secretary of State as to what the final settlement should be.
 - (2B) In determining the final settlement, the Secretary of State must consider whether or not to accept the Licence Fee Commission's recommendation and, if the Secretary of State decides to reject that recommendation, the Secretary of State must publish the reasons for the rejection.
 - (2C) 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.”

LORD STEVENSON OF BALMACARA

- 222B★** Insert the following new Clause—
- “BBC Licence Fee Commission**
- (1) An independent commission to be known as the BBC Licence Fee Commission is established.
 - (2) It shall be the duty of the BBC Licence Fee Commission to make a recommendation to the Secretary of State regarding the level of licence fee required to fund the BBC for the purposes set out in the Royal Charter and Agreement in respect of the settlement from 1 April 2022, and in good time for each successive settlement.”

- 222C★** Insert the following new Clause—
- “Duty of the Secretary of State to consult and lay recommendations before Parliament**
- (1) The Secretary of State must conduct a full public consultation on the level of BBC licence fee recommended by the BBC Licence Fee Commission.
 - (2) The Secretary of State must lay a report before each House Parliament outlining the results of the consultation, and containing a recommendation as to the appropriate level of licence fee for the settlement period.”

After Clause 76 - continued

222D★ Insert the following new Clause—

“Duty of the Secretary of State in determining funding settlement

- (1) The Secretary of State shall determine the final settlement for BBC funding.
- (2) In determining the final settlement the Secretary of State shall consider whether or not to accept the BBC Licence Fee Commission’s recommendation and, if the Secretary of State decides to reject that recommendation, the Secretary of State shall publish the reasons for the rejection.
- (3) In determining the final settlement, the Secretary of State shall also take account of—
 - (a) the views of the BBC board,
 - (b) the results of the public consultation under section (*Duty of the Secretary of State to consult and lay recommendation before Parliament*), and
 - (c) the need for effective fulfilment of the BBC’s mission and purposes under the Royal Charter and Agreement.’’

222E★ Insert the following new Clause—

“Impact of Royal Charter and Agreement on radio production

The Secretary of State must report, within a year of the passing of this Act, on the impact of the BBC Royal Charter and Agreement, on—

- (a) the balance of in-house and independent production of programmes for BBC radio broadcast;
- (b) the extent to which training and development of production staff may have been affected;
- (c) the numbers of staff active in radio production compared to 2016, including details of gender and other indicators of diversity; and
- (d) the impact the changes have had on the salaries and conditions of radio production staff.’’

After Clause 77

LORD LESTER OF HERNE HILL
LORD PANNICK
LORD INGLEWOOD
LORD STEVENSON OF BALMACARA

223 Insert the following new Clause—

“Repeal of section 77

Section 77 is repealed at the end of the period of nine years beginning on with the day on which this Act is passed.’’

After Clause 79

LORD STEVENSON OF BALMACARA
LORD ADDINGTON

224 Insert the following new Clause—

“Listed events qualifying criteria

- (1) The Broadcasting Act 1996 is amended as follows.
- (2) For section 98(2)(b) substitute—
 - “(b) that the service has been watched by at least 90% of citizens in the United Kingdom in the course of the preceding calendar year.”
- (3) After section 98(2) insert—
 - “(2A) The Secretary of State may by Order amend section (2)(b) by substituting a different percentage for any percentage for the time being specified there.
 - (2B) No order under subsection (2A) shall be made unless a draft of the Order has been laid before and approved by a resolution of each House of Parliament.””

LORD BORWICK

225 Insert the following new Clause—

“On-demand programme services: accessibility for people with disabilities

- (1) The Communications Act 2003 is amended as follows.
- (2) After section 368BB insert—

“Accessibility

368BC Accessibility for people with disabilities

- (1) The Secretary of State may by regulations impose requirements on providers of on-demand programme services for the purpose of ensuring that their services are accessible to people with disabilities affecting their sight or hearing or both.
- (2) The requirements that may be imposed include—
 - (a) requirements for programmes included in the services to be accompanied by subtitling;
 - (b) requirements for such programmes to be accompanied by audio-description for the blind;
 - (c) requirements for such programmes to be presented in, or translated into, sign language.
- (3) Before making regulations under this section, the Secretary of State must consult—
 - (a) the appropriate regulatory authority, and
 - (b) (where they are not the appropriate regulatory authority) OFCOM.

368BD Enforcement of regulations under section 368BC

- (1) Where the appropriate regulatory authority determines that a provider of an on-demand programme service is contravening or has contravened regulations under section 368BC, they may do one or both of the following—

After Clause 79 - continued

- (a) give the provider an enforcement notification under this section;
 - (b) impose a penalty on the provider in accordance with section 368J.
- (2) The appropriate regulatory authority must not make a determination as mentioned in subsection (1) unless there are reasonable grounds for believing that a contravention of the regulations is occurring or has occurred and they have allowed the provider an opportunity to make representations about that apparent contravention.
- (3) An enforcement notification under this section is a notification which specifies the determination made as mentioned in subsection (1) and imposes a requirement on the provider to take all such steps for complying with the regulations and for remedying the consequences of the contravention of the regulations as may be specified in the notification.
- (4) An enforcement notification must—
- (a) include reasons for the appropriate regulatory authority’s decision to give the enforcement notification, and
 - (b) fix a reasonable period for taking the steps required by the notification.
- (5) It is the duty of a provider to whom an enforcement notification is given to comply with it.
- (6) That duty is enforceable in civil proceedings by the appropriate regulatory authority—
- (a) for an injunction,
 - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or
 - (c) for any other appropriate remedy or relief.
- (7) If a provider to whom an enforcement notification has been given does not comply with it within the period fixed by the appropriate regulatory authority in that enforcement notification the appropriate regulatory authority may impose a financial penalty on the provider in accordance with section 368J.”
- (3) In section 368C (duties of the appropriate regulatory authority), omit subsection (2).
- (4) After that section insert—
- “368CA Code on accessibility for people with disabilities**
- (1) It is the duty of the appropriate regulatory authority to draw up, and from time to time review and revise, a code giving guidance as to—
- (a) the steps to be taken by providers of on-demand programme services so as to meet the requirements of regulations under section 368BC, and
 - (b) other steps to be taken by providers who are subject to requirements under the regulations to ensure that their services are made progressively more accessible to people with disabilities affecting their sight or hearing or both.

After Clause 79 - continued

- (2) The appropriate regulatory authority must publish the code drawn up under this section, and every revision of it, in such manner as, having regard to the need to make the code or revision accessible to—
- (a) persons who are deaf or hard of hearing,
 - (b) persons who are blind or partially sighted, and
 - (c) persons with a dual sensory impairment,
- they consider appropriate.”
- (5) In section 368J(1)(financial penalties), after “368BB” insert “, 368BD”.
- (6) In section 368K(1)(suspension or restriction of service for contraventions)—
- (a) in paragraph (a), after “368D” insert “, or of regulations under section 368BC”,
 - (b) in paragraph (b)—
 - (i) after “368D” insert “or the regulations”, and
 - (ii) for “or 368I” substitute “, 368I or 368BC”.
- (7) In section 368O(2)(a)(power to demand information), after “368D” insert “, or of regulations under section 368CA,”.”

226

[Withdrawn]

After Clause 80

LORD STEVENSON OF BALMACARA
BARONESS JONES OF WHITCHURCH

226A★

Insert the following new Clause—

“Public sector broadcasting prominence

- (1) The Communications Act 2003 is amended as follows.
- (2) In the title of section 232, at end insert “and “**electronic programme guide**””
- (3) After subsection 232(5) insert—

“(5A) In this section “electronic programme guide” means a service which consists of a—

 - (a) linear electronic programme guide; or
 - (b) qualifying connected electronic programme guide.”
- (4) In subsection 232(6) for “electronic programme guide” substitute “linear electronic programme guide”.
- (5) In paragraph 232(6)(b) after “for” insert “finding, selecting or”
- (6) After subsection 232(6) insert—

“(7) In this section “qualifying connected electronic programme guide” means a “connected electronic programming guide” which is used by a significant number of its intended audiences as a means of receiving television programmes or TV-like content.

(8) In this section “connected electronic programming guide” means a service which consists of—

After Clause 80 - continued

- (a) the listing or promotion, or both the listing and the promotion, of some or all of the programmes included in any one or more programme services the providers of which are or include persons other than the provider of the guide; and
 - (b) the listing or promotion, or both the listing and the promotion, of—
 - (i) some or all of the programmes included in any one or more on-demand programme services, or
 - (ii) some or all of the on-demand programme services, the providers of which are or include persons other than the provider of the guide; and
 - (c) the facility for finding, selecting or obtaining access, in whole or in part, to the programme service or services and the on-demand programme service or services listed or promoted in the guide.
- (9) The Secretary of State may by order amend the definition of an electronic programme guide in this section.
- (10) Before making an order under subsection 9 the Secretary of State must consult OFCOM.”
- (7) In subsection 310(1) for “from time to time” substitute “on 1 December 2017 and at intervals of no more than three years thereafter”.
- (8) In subsection 310(2) omit “such degree of” and “as OFCOM consider appropriate”.
- (9) In paragraph 310(4)(a) after “BBC” insert “, including on-demand programme services,”.
- (10) After paragraph 310(4)(h) insert—
- “(i) any on-demand programme service provided by a public service broadcaster.
- (4A) A service is an on-demand programme service provided by a public service broadcaster for the purposes of paragraph 4(i) if it —
- (a) is provided by any of the following—
 - (i) a person licensed under Part 1 of the 1990 Act to provide a Channel 3 service;
 - (ii) the Channel 4 Corporation;
 - (iii) a person licensed under Part 1 of the 1990 Act to provide Channel 5;
 - (iv) the Welsh Authority; and
 - (b) provides access to programmes broadcast on a licensed public service channel.”
- (11) In paragraph 310(5)(a) after first “service” insert “, including on-demand programme services,”.
- (12) After subsection 310(5) insert—
- “(5A) In making any order under subsection (5) the Secretary of State must have regard for the desirability of investment in original productions.
 - (5B) In this section “original productions” means programmes commissioned by or for the provider of a service for the purposes of subsection (5) with a view to their first showing on television in the United Kingdom on that service.”

After Clause 80 - continued

- (13) After paragraph 310(7)(a) insert—
 “(b) if the service is a public service channel dedicated to children, persons under the age of 16;”
- (14) Leave out subsection 310(8) and insert—
 “(8) In this section “electronic programme guide” means a service which consists of the programme service or services listed or promoted in the guide.”
- (15) In subsection 311(2) for “310” substitute “232(5A)”.

After Clause 84

LORD ASHTON OF HYDE

227 Insert the following new Clause—

*“Internet filters***Internet filters**

- (1) A provider of an internet access service to an end-user may prevent or restrict access on the service to information, content, applications or services, for child protection or other purposes, if the action is in accordance with the terms on which the end-user uses the service.
- (2) This section does not affect whether a provider of an internet access service may prevent or restrict access to anything on the service in other circumstances.
- (3) In this section—
 “end-user” means an end-user of a public electronic communications service, within the meaning given by section 151(1) of the Communications Act 2003;
 “internet access service” has the meaning given by Article 2(2) of Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25th November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users’ rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union.”

228 Insert the following new Clause—

*“Communication devices used for drug dealing***Prevention or restriction of use of communication devices for drug dealing**

After section 80 of the Serious Crime Act 2015 insert—

“80A Prevention or restriction of use of communication devices for drug dealing

- (1) Regulations may make provision conferring power on a court to make a drug dealing telecommunications restriction order.

After Clause 84 - continued

- (2) “Drug dealing telecommunications restriction order” means an order requiring a communications provider to take whatever action the order specifies for the purpose of preventing or restricting the use of communication devices in connection with drug dealing offences.
- (3) Without limiting the action that may be specified, it includes—
 - (a) action that relates to a specified device;
 - (b) action that relates to a specified phone number or something else that may be used with a device.
- (4) In this section “drug dealing offence” means an offence under section 4(3) of the Misuse of Drugs Act 1971 or section 5 of the Psychoactive Substances Act 2016; and a communication device is used in connection with a drug dealing offence if it is used by a person (“the user”) in the course of—
 - (a) the user committing a drug dealing offence,
 - (b) the user facilitating the commission by the user or another person of a drug dealing offence, or
 - (c) conduct of the user that is likely to facilitate the commission by the user or another person of a drug dealing offence (whether or not an offence is committed).
- (5) Regulations under this section must provide for drug dealing telecommunications restriction orders to be made only on the application of—
 - (a) the Director General or Deputy Director General of the National Crime Agency, or
 - (b) a police officer of the rank of superintendent or above.
- (6) Regulations under this section must—
 - (a) specify the matters about which the court must be satisfied if it is to make an order;
 - (b) make provision about the duration of orders (which may include provision for orders of indefinite duration);
 - (c) make provision about the giving (by a communications provider or any other person) of notice of the making of an order;
 - (d) make provision about variation (including extension) and discharge of orders;
 - (e) make provision about appeals.
- (7) Regulations under this section must provide—
 - (a) for applications for drug dealing telecommunications restriction orders to be made and heard without notice of the application or hearing having been given to persons affected (or their legal representatives), subject to subsection (9)(a);
 - (b) for applications to be heard and determined in the absence of persons affected (and their legal representatives), subject to subsection (9)(b);
 - (c) for applications to be heard and determined in private.
- (8) Regulations under this section must provide for a court hearing an application or an appeal to have power to restrict disclosure of information submitted in connection with the application or appeal if satisfied that it is necessary to do so in the public interest.

After Clause 84 - continued

- (9) Regulations under this section may –
- (a) make provision for a communications provider affected by an application to be given notice of the application or hearing;
 - (b) make provision for a communications provider affected by an application to be present or represented at the hearing and determination of the application;
 - (c) in connection with any provision under paragraph (b), make provision for a communications provider to have a right to make representations;
 - (d) make provision for a drug dealing telecommunications restriction order to specify that a requirement of the order is not to apply in particular circumstances;
 - (e) make provision authorising a court to include in an order a requirement for the person applying for the order to pay any or all of the costs of complying with it;
 - (f) make provision about time limits for complying with orders;
 - (g) make provision about enforcement of orders (which may include provision creating offences);
 - (h) make provision about costs (or, in Scotland, expenses) in respect of legal proceedings;
 - (i) make provision about compensation;
 - (j) make different provision for different purposes or areas;
 - (k) make incidental, consequential, supplementary or transitional provision, including provision applying any enactment (with or without modifications).
- (10) The power to make regulations under this section is exercisable by statutory instrument made by the Secretary of State.
- (11) A statutory instrument containing regulations under this section is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (12) In this section –
- “communication device” means an item specified in section 1(3) of the Prisons (Interference with Wireless Telegraphy) Act 2012 (mobile telephones etc);
- “communications provider” means a person providing a telecommunications service;
- “court” means –
- (a) in relation to England and Wales, the county court;
 - (b) in relation to Scotland, the sheriff;
 - (c) in relation to Northern Ireland, a county court;
- “enactment” includes –
- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
 - (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
 - (c) Northern Ireland legislation;
- “telecommunications service” has the meaning given by section 261 of the Investigatory Powers Act 2016.””

After Clause 84 - continued

BARONESS BENJAMIN
 BARONESS BONHAM-CARTER OF YARNBURY
 BARONESS JONES OF WHITCHURCH

229 Insert the following new Clause—

“Original programmes for children and young people

After section 289 of the Communications Act 2003 (regional matters in the public teletext service) insert—

“289A Original programmes for children and young people

- (1) The regulatory regime for every licensed public service channel must include the conditions that OFCOM consider appropriate for securing—
 - (a) that the programmes included in the channel include high quality original programmes for children and young people;
 - (b) that the programmes for children and young people included in the service are of a suitable range;
 - (c) that the programmes for children and young people so included are broadcast for viewing at appropriate times.
- (2) The regulatory regime must also include conditions that OFCOM consider appropriate for securing that, in each year—
 - (a) the time allocated to the broadcasting of programmes for children included in the service, and
 - (b) the time allocated to the broadcasting of programmes for young people so included,
 constitute no less than what appears to OFCOM to be an appropriate proportion of the time allocated to the broadcasting of all the programmes included in the channel.
- (3) Before determining for the purposes of this section the proportionate time to be allocated to the broadcasting of programmes for children and young people, OFCOM must consult the provider of the channel, or, as the case may be, the person who is proposing to provide it.
- (4) The requirement to consult is satisfied, in the case of the imposition of a condition by way of a variation of a license, by compliance with section 3(4)(b) of the Broadcasting Act 1990 (licences under Part I).”

Before Schedule 4

LORD LESTER OF HERNE HILL
 LORD PANNICK
 LORD INGLEWOOD
 LORD STEVENSON OF BALMACARA

229A★ Insert the following new Schedule—

“SCHEDULE**NEW SCHEDULE 8A TO COMMUNICATIONS ACT 2003**

This is the Schedule to be inserted after Schedule 8 to the Communications Act 2003—

“SCHEDULE 8A

Before Schedule 4 - continued

BBC: GOVERNANCE AND APPOINTMENTS

Appointment of the board members

- 1 (1) The chair is to be appointed, for a term not exceeding three years, by Her Majesty in Council on the advice of the Privy Council and on a recommendation from the Prime Minister.
- (2) Before making the recommendation the Prime Minister must conduct a fair, open and merit-based competition.
- (3) One of the board members must be a representative of the Government, appointed by the Secretary of State for a term not exceeding three years.
- (4) The board member mentioned in sub-paragraph (3) may not be the chair or chief executive.
- (5) Before making an appointment under sub-paragraph (3), the Secretary of State must consult the chair.
- (6) The other board members are to be appointed, for a term not exceeding three years, by Her Majesty in Council on the advice of the Privy Council, and on a recommendation from the Prime Minister following the process set out in sub-paragraphs (7) to (12).
- (7) The chair must make recommendations on appointments to the Prime Minister following a fair, open and merit-based competition.
- (8) The chair must provide the Prime Minister with a choice of appointable candidates whose skills, experience and qualities meet the needs (as determined by the Secretary of State and the chair) of the role.
- (9) The competition process for the other board members must be approved by the Secretary of State.
- (10) Recommendations on appointments made by the chair must specify the recommended term of the appointment.
- (11) The procedure for re-appointment of board members is the same as for appointment.
- (12) A person may be re-appointed as a board member once only.

Appointment of Chief Executive

- 2 (1) There is to be an employee of the BBC known as the chief executive.
- (2) Before making an appointment of a person as the chief executive, the Director General of the BBC must establish a nominations committee consisting of at least three board members, one of whom must be made chair of the committee.
- (3) The purpose of the nominations committee is to make recommendations to the BBC about the appointment of the chief executive.
- (4) Before making recommendations under this Schedule, the nominations committee must conduct a fair, open and merit-based competition.””

Before Schedule 4 - continued

LORD PADDICK
LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

229B★ Insert the following new Schedule –

“Appeals Against Decision of Age-Verification Regulator

- 1 There shall be constituted an Age Verification Committee (“the Committee”) for the purposes of hearing appeals against an enforcement notice given, financial penalty imposed under section 20, or notice given under section 23, by the age verification regulator (“the Regulator”) under Part 3 of this Act.
- 2 (1) An appeal against a determination of the Regulator shall be commenced not later than 42 days from the date on which the appellant receives notice of the Regulator’s determination by the appellant sending to the Committee a Notice of Appeal together with a copy of the video work and the appeal fee.
 - (2) The appeal fee shall be as prescribed by regulation by the Secretary of State.
 - (3) The Notice of Appeal shall be ineffective unless accompanied by the appeal fee.
 - (4) A Notice of Appeal shall be in writing, delivered personally and shall –
 - (a) set out the name of the appellant and his or her address for the service of documents;
 - (b) identify the determination by which the appellant is aggrieved;
 - (c) contain a concise statement of the grounds of appeal –
 - (i) giving particulars of any reason and a copy of any document upon which the appellant relies; and
 - (ii) indicating any point on which the appellant relies which appears to him to be a point of law;
 - (d) state the nature of the decision which the appellant wishes the Committee to take in accordance;
 - (e) be signed by on behalf of the appellant;
 - (f) be accompanied by a link to the site or material which is the subject of the Notice of Appeal.
- 3 Notice of the Regulator’s determination shall be either delivered personally, sent by post or email, and every notice sent by post or email shall, for the purpose of paragraph (1), be deemed to have been received within 48 hours of posting or sending, respectively.
- 4 At any time within fourteen days of the receipt of a Notice of Appeal by the Committee, the Regulator shall be entitled to view the link delivered to the Committee and shall either certify that it is identical to the site in respect of which the determination was made or, if it appears to the Regulator not to be identical, shall inform the Committee, who shall give such directions as it considers appropriate.
- 5 The Regulator shall, within the period of fourteen days beginning with the date on which the Notice of Appeal is given to it by the Committee, deliver personally to the Committee –
 - (a) a copy of the notice of the determination given by the Regulator;

Before Schedule 4 - continued

- (b) a notice setting out any representations which the Regulator wishes to make; and
 - (c) a copy of any document which it wishes to produce.
- 6 The appellant may within a period of fourteen days, beginning with the date on which a copy of the Regulator's reply is given to him, deliver personally to the Committee a notice setting out any further representations he wishes to make and a copy of any further document he wishes to produce.
- 7 The Committee shall, upon receipt from either party of any notice or document served pursuant to these Provisions, forthwith give a copy thereof to the other party.
- 8 Any notice or document required under these provisions to be given by the Committee to either party shall be delivered personally or sent by post, fax or email; and every notice sent by post or email shall be deemed to have been received within 48 hours of posting or sending, respectively .
- 9 Any notice or document required to be given by a party to the Committee shall be delivered to the Secretary of the Committee.
- 10 The Committee may, at its discretion, accept for consideration any written representations, documents or other material submitted to it by any person other than the appellant or the Regulator who appears to the Committee to have an interest in the outcome or determination of the appeal.
- 11 If the Committee accepts any such written representations, documents or other material, it shall forthwith send copies thereof to the parties to the appeal so that each party can consider whether to request that person to attend as a witness or to rely upon such written representations, documents or other submitted material.
- 12 The Committee may make such directions as to the conduct of the appeal as it shall consider desirable in the interests of justice, including (but not by way of limitation) dispensing with the taking of any steps required or authorised by these provisions, or directing that any such steps be taken in some manner other than that described by these provisions, or extending the time limits set out in these provisions.
- 13 The Committee shall fix the date, time and place of the hearing of the appeal and shall give each party not less than fourteen days notice of such details.
- 14 The Appeals Panel ("the Panel") shall hear and decide each appeal on behalf of the Committee. The members of the Panel for each appeal shall consist of the Chair of the Committee (who shall also be the Chair of each Panel) and not less than two members of the Committee appointed by the Chair of the Committee for each such appeal.
- 15 The Chair of the Panel shall exercise the jurisdiction of the Committee in all procedural matters prior to the hearing.
- 16 In the absence of any member of the Panel the hearing may proceed in the absence of such member provided that the Chair of the Committee (or in the absence of the Chair, the Committee member nominated by the Chair) appoints a replacement member of the Panel for the purposes of the appeal.

Before Schedule 4 - continued

- 17 In the event that the Chair of the Committee is unable to sit as a member of the Panel for an appeal, the Chair of the Committee (or in the absence of the Chair, the Committee member nominated by the Chair) shall appoint a member of the Committee as Chair of the Panel for such appeal.
- 18 The Panel shall conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it and generally conducive to the just handling of proceedings; it shall so far as appears to it appropriate seek to avoid formality in its proceedings and it shall not be bound by any enactment or rule of law relating to the admissibility of evidence before the Courts of Law.
- 19 At any hearing of an appeal a party to the appeal may make an opening statement, give evidence on his own behalf, call witnesses, cross-examine any witness called by the other party and address the Panel.
- 20 At any hearing of, or in connection with, an appeal, a party may appear before the Panel in person or may be represented by any other person who he desires to represent him.
- 21 If a party fails to appear or be represented at the time and place fixed for the hearing of an appeal, the Panel may, as it considers appropriate, either dispose of the appeal in the absence of that party or adjourn the hearing to a later date.
- 22 Any hearing of an appeal shall take place in public unless it appears to the Panel that a private hearing either in whole or in part is desirable.
- 23 (1) The Panel shall take account of and have due regard to the Classification Guidelines of the Regulator that were material to the decision under appeal, and shall only depart from them if—
- (a) it is required in the special circumstances of the individual case; or
 - (b) it is in the interests of justice to do so.
- (2) If the Panel decides to depart from the Regulator's Guidelines on the grounds that criterion (i) or (ii) is met, they must afford the Regulator an opportunity to respond on the proposed departure from their Guidelines before proceeding to take the appeal decision.
- 24 In the exercise of its jurisdiction the Panel may, after hearing the decision of the Panel, submit the case to the Regulator to re-take its decision after it has fulfilled any procedural requirements set down by the Panel.
- 25 The decision of the Panel shall be in writing signed by the Chair of the Panel and shall contain the reasons for the decision, and a copy of that decision shall, within a period of 21 days from the final day of the hearing, be sent by the Committee to each party to the appeal.
- 26 Without detracting from the obligations under paragraph (2) above, the Panel may, as a preliminary step, provide an oral decision without giving reasons.
- 27 If the members of the Panel dealing with the appeal are unable to agree a unanimous decision, the decision shall be taken by the votes of the majority.
- 28 Where it appears to the Panel that any proceedings brought by the Appellant may be frivolous or vexatious: it shall so notify the appellant and warn him in writing that he is at risk of being ordered to pay the expenses of the Board.

Before Schedule 4 - continued

- 29 If it appears to the Panel that the proceedings in the period after the warning was given were frivolous or vexatious, it may order the appellant to pay the Regulator the whole or such part as it thinks fit of the expenses incurred by the Regulator in connection with the appeal for that part of the proceedings after the appellant had been warned.
- 30 The Committee shall, if the appeal is wholly successful, refund to the appellant the whole of the appeal fee and in any other circumstances may at its discretion refund all or any part of the appeal fee.
- 31 Save as otherwise mentioned neither party to an appeal shall be entitled to be reimbursed for any costs incurred in connection with an appeal.”

After Clause 87

LORD STEVENSON OF BALMACARA
LORD MOYNIHAN
LORD CLEMENT-JONES

230 Insert the following new Clause—

“Offence of using digital ticket purchasing software to purchase excessive number of tickets

- (1) A person commits an offence if he or she utilises digital ticket purchasing software to purchase tickets over and above the number permitted in the condition of sale.
- (2) A person commits an offence if he or she knowingly resells or offers to resell, or allows to be resold or offered for resale on a secondary ticketing facility, a ticket that the person knows, or could reasonably suspect, was obtained using digital ticket purchasing software and was acting in the course of a business.
- (3) For the purposes of subsection (2) a person shall be treated as acting in the course of a business if he or she does anything as a result of which he or she makes a profit or aims to make a profit.
- (4) A person guilty of an offence under this section shall be liable on summary conviction to—
 - (a) imprisonment for a period not exceeding 51 weeks,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.
- (5) In this section—

“digital ticket purchasing software” means any machine, device, computer programme or computer software that, on its own or with human assistance, bypasses security measures or access control systems on a retail ticket purchasing platform that assist in implementing a limit on the number of tickets that can be purchased, to purchase tickets;

“retail ticket purchasing platform” shall mean a retail ticket purchasing website, application, phone system, or other technology platform used to sell tickets.”

After Clause 87 - continued

LORD CLEMENT-JONES
LORD FOSTER OF BATH

231 Insert the following new Clause –

“Unauthorised online ticket resale for a recreational, sporting or cultural event

- (1) The Consumer Rights Act 2015 is amended as follows.
- (2) After section 90 (duty to provide information about tickets) insert –
 - “90A Unauthorised online ticket resale for a recreational, sporting or cultural event**
 - (1) It is an offence for an unauthorised online secondary ticketing facility to –
 - (a) re-sell a ticket, or
 - (b) otherwise dispose of such a ticket to another person.
 - (2) For this purpose –
 - (a) a secondary ticketing facility is “unauthorised” unless it is authorised in writing to re-sell or otherwise dispose of tickets by the organisers of the recreational, sporting or cultural event;
 - (b) re-selling a ticket includes –
 - (i) offering to sell a ticket;
 - (ii) exposing a ticket for sale;
 - (iii) making a ticket available for sale by another;
 - (iv) advertising that a ticket is available for purchase; and
 - (v) giving a ticket to a person who agrees to pay for some other goods or services or offers to do so;
 - (c) a “ticket” means anything which purports to be a ticket.
 - (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

BARONESS FINLAY OF LLANDAFF

232 Insert the following new Clause –

“Active consent of online buyers required for retention and use of contact information

- (1) A seller of goods or services via the internet must not retain, share or use any contact information provided by buyers for any purpose except directly facilitating the sale of the good or service, unless the buyer has actively consented to the retention, sharing or use of the information.
- (2) For the condition in subsection (1) to be satisfied, the seller must have specified any purposes to which the buyer is consenting.
- (3) The condition in subsection (1) may be satisfied by the buyer ticking a box on the seller’s web page, but it may not be satisfied by the buyer failing to untick such a box which has been pre-filled.
- (4) A seller who contravenes the requirement in subsection (1) is guilty of an offence.

After Clause 87 - continued

- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding 10% of the seller's annual gross operating profit."

LORD STEVENSON OF BALMACARA

233 Insert the following new Clause—

“Digital content: rights

Digital content as defined under section 2 of the Consumer Rights Act 2015 (key definitions) shall have the same consumer rights as other goods under that Act.”

Clause 89

LORD LESTER OF HERNE HILL

LORD PANNICK

LORD INGLEWOOD

LORD STEVENSON OF BALMACARA

234 Page 89, line 37, at end insert—

“() sections (*The BBC Charter: timing*), (*The BBC Charter: approval*), (*The independence and funding of the BBC*) and (*The governance of the BBC*);”

LORD CLEMENT-JONES

VISCOUNT COLVILLE OF CULROSS

LORD FOSTER OF BATH

235 Page 90, line 10, at end insert—

“() section 29;”

LORD ASHTON OF HYDE

236 Page 90, line 12, at end insert—

“() section (*Prevention or restriction of use of communication devices for drug dealing*);”

BARONESS BENJAMIN

BARONESS JONES OF WHITCHURCH

237 Page 90, line 13, at end insert—

“() Part 3 and section 80 come into force at the end of the period of one year beginning with the day on which this Act is passed.”

LORD ASHTON OF HYDE

237A★ Page 90, line 15, after “except” insert “Chapter 1 so far as that Chapter relates to the disclosure of information to or by a water or sewerage undertaker for an area which is wholly or mainly in Wales,”

238 Page 90, line 15, after “40” insert “and Chapter 5 so far as that Chapter relates to the disclosure of information by the Welsh Revenue Authority”

Clause 89 - continued

239 Page 90, line 17, at end insert –

“() Chapter 5 of Part 5, so far as relating to the disclosure of information by the Welsh Revenue Authority, comes into force on whatever day the Welsh Ministers appoint by regulations made by statutory instrument.”

239A★ Page 90, line 17, at end insert –

“() Chapter 1 of Part 5, so far as relating to the disclosure of information to or by a water or sewerage undertaker for an area which is wholly or mainly in Wales, comes into force on whatever day the Welsh Ministers appoint by regulations made by statutory instrument.”

Clause 90

LORD ASHTON OF HYDE

239B★ Page 90, line 24, at end insert –

“() Sections (*Disclosure of information to water and sewerage undertakers*) and (*Disclosure of information by water and sewerage undertakers*) extend to England and Wales only.”

In the Title

LORD ASHTON OF HYDE

240 Line 8, after “functions;” insert “to make provision about internet filters;”

241 Line 8, after “functions;” insert “to make provision about preventing or restricting the use of communication devices in connection with drug dealing offences;”

Digital Economy Bill

REVISED
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

30 January 2017
