

Digital Economy Bill

THIRD
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.**

After Clause 29

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.

After Clause 29 - continued

- (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.
 - (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.

After Clause 29 - continued

- (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,
 - (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).”

LORD STEVENSON OF BALMACARA

79A Insert the following new Clause –

“Unauthorised devices

- (1) Section 297A of the Copyright, Designs and Patents Act 1988 (unauthorised decoders) is amended as follows.
- (2) In the title, for “decoder” substitute “device”.
- (3) In subsection (1) –
- (a) in paragraph (a), for “decoder” substitute “device”;
 - (b) in paragraph (b), for “decoder” substitute “device”;
 - (c) in paragraph (c), for “decoder” substitute “device”;
 - (d) in paragraph (d), for “decoder” substitute “device”.
- (4) In subsection (3) –
- (a) for first “decoder” substitute “device”;
 - (b) for second “decoder” substitute “device”.

After Clause 29 - continued

- (5) In subsection (4)–
- (a) in the definition of “apparatus”–
 - (i) leave out “apparatus” and insert “device”;
 - (ii) leave out “device” and insert “equipment”;
 - (b) leave out the definitions of –
 - (i) “conditional access technology”,
 - (ii) “decoder”, and
 - (iii) “encrypted”;
 - (c) in the definition of “transmission”, leave out from “means” to end and insert “any programme included in a broadcast which attracts protections as a copyright work under Part 1 of the Act and in respect of which access is made conditional on prior authorisation;”;
 - (d) in the definition of “unauthorised” –
 - (i) for first “decoder” substitute “device”;
 - (ii) for second “decoder” substitute “device”;
 - (iii) leave out “an encrypted”;
 - (iv) after “form” insert “(whether on its own or with any other device)”;
 - (v) leave out “(whether by the circumvention of any conditional access technology related to the transmission or service by any other means)”.

79B Insert the following new Clause–

“E-books: exemption from VAT

Electronic books shall be exempt from VAT.”

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.”

LORD COLLINS OF HIGHBURY
LORD STEVENSON OF BALMACARA

80A★ Page 30, line 13, leave out paragraph (b)

Clause 30 - continued

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

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

LORD COLLINS OF HIGHBURY
LORD STEVENSON OF BALMACARA

81ZA★ Page 30, line 28, at end insert –

“() The effective maintenance of the electoral register must be specified as an objective in regulations under subsection (6).”

LORD WHITTY

81A Page 30, line 35, at end insert –

“() the facilitation of improvements in health conditions which could be exacerbated by living in a cold home.”

LORD COLLINS OF HIGHBURY
LORD STEVENSON OF BALMACARA

81B★ Page 30, line 42, at end insert –

“() The Investigatory Powers Commissioner has a duty to ensure that the data protection rights of citizens are considered and protected for the purpose of the powers provided by this section.”

After Clause 30

LORD STOREY
LORD CLEMENT-JONES
LORD COLLINS OF HIGHBURY

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).

After Clause 30 - continued

- (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.
- (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.”

LORD COLLINS OF HIGHBURY
LORD STEVENSON OF BALMACARA

82ZA★

Insert the following new Clause—

“Review of the collection and use of data by government and commercial bodies

- (1) Within six months of the passing of this Act, the Secretary of State shall commission an independent review of the collection and use of data by government and commercial bodies and shall lay a report of the review before each House of Parliament.
- (2) The review under subsection (1) shall consider—
 - (a) the increasing use of big data analytics and privacy risks associated with big data;
 - (b) the adequacy of current rules and regulations on data ownership;
 - (c) the collection and use of administrative data;
 - (d) any other matters the Secretary of State considers appropriate.
- (3) In conducting the review, the designated independent reviewer must consult—
 - (a) specialists in big data, data ownership and administrative data;
 - (b) those who campaign for citizens’ rights in relation to privacy, personal information and data protection;

After Clause 30 - continued

- (c) any other persons and organisations the reviewer considers appropriate.
- (4) In this section “big data analytics” means the process of examining large datasets to uncover hidden patterns, unknown correlations, market trends, customer preferences and other useful business information.”

Clause 31

LORD WHITTY

82A Page 31, line 6, at end insert –

- “() a licensed electricity distributor, or
- () a licensed gas network distributor.”

82B Page 31, line 24, at end insert –

- “() the requirements of the Gas and Electricity Markets Authority for a licensed electricity distributor, or
- () the requirements of the Gas and Electricity Markets Authority for a licensed gas network operator.”

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

88 [Withdrawn]

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
BARONESS MASSEY OF DARWEN
THE LORD BISHOP OF ST ALBANS

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
 - (ii) a child element of Universal Credit.”

Clause 33 - continued

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,”

LORD COLLINS OF HIGHBURY
LORD STEVENSON OF BALMACARA

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

Clause 34 - continued

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,
 - (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.”

After Clause 35 - continued

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 –
 - (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

After Clause 35 - continued

- (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”;
 - (b) in subsection (4)(b) after “principles” insert “or sections”.
- (7) In section 43 (information notices) –

After Clause 35 - continued

- (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)”;
 - (e) after subsection (5) insert –

After Clause 35 - continued

- “(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*)”

LORD COLLINS OF Highbury
LORD STEVENSON OF BALMACARA

107B★ Page 35, line 6, at end insert—

- “() Any person to whom the code applies must be report any breaches of the code to the Investigatory Powers Commissioner.
- () Where the Investigatory Powers Commissioner considers that—
 - () the breach is a serious breach, and

Clause 36 - continued

() it is in the public interest for the relevant individual to be informed of the breach,

the Commissioner shall carry out an investigation.

() Before making a decision, the Investigatory Powers Commissioner must ask the person or authority who has made the breach to make submissions to the Commissioner about the matters concerned.”

BARONESS JANKE
LORD CLEMENT-JONES
LORD COLLINS OF Highbury

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.”

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
LORD COLLINS OF Highbury

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 39BARONESS 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 40BARONESS 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”

After Clause 41

LORD STEVENSON OF BALMACARA

117A★ Insert the following new Clause –

“Data sharing for the purpose of supporting better debt management

In addition to the purposes set out in section 41(3), information about debt may be shared by specified persons under this Chapter for the purpose of helping individuals to manage their debts, including by provision of a breathing space.”

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
- (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.”

Clause 42 - continued

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)),
() 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).

(3B) For the purposes of subsection (3A), the code of practice must require a specified person –

(a) who intends to share data relating to debt, to have in place procedures to identify vulnerable people and take appropriate account of their needs and circumstances; and

(b) before taking any action as a result of the sharing of data about debt, to consider the welfare of the people who owe the debt.

(3C) For the purposes of subsection (3A), the code of practice must require specified persons intending to share data about debt to have in place procedures to assess the affordability of debt repayments by reference to a common standard.”

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).”

BARONESS JANKE
LORD CLEMENT-JONES
LORD COLLINS OF HIGHBURY

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

Clause 48 - continued

- () 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 STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

138A Page 50, line 27, at end insert –

- “() for the purposes of journalistic publication, or broadcast transmission, in the public interest.”

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.”

Clause 50 - continued

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 51

BARONESS 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 STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

146A Page 51, line 34, at end insert—

“() for the purposes of journalistic publication, or broadcast transmission, in the public interest.”

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”.”

BARONESS FINLAY OF LLANDAFF

213A Insert the following new Clause—

“CHAPTER 8: TRANSPARENCY AND EQUIVALENCY**Digital transparency**

- (1) Any agreement to share data under this Part shall be listed in a register of data sharing agreements.
- (2) Any register of data sharing agreements shall be published in digital form.”

213B Insert the following new Clause—

“Digital equivalency

- (1) Where a digital service exists which is otherwise equivalent to non-digital processes, the exercise of rights by data subjects shall be expressible via digital means.
- (2) Rights exercisable by data subjects include the ability to object or express dissent from processing that may be offered by a data controller.
- (3) A data controller, for the purposes of this Chapter, may show the data subject by digital means the effects (or otherwise) of such choices, as if the request were made under section 7 of the Data Protection Act 1998 (right of access to personal data).”

213C Insert the following new Clause—

“Interpretation of this Chapter

- (1) Any information released subject to section (*Digital equivalency*)(3) shall be treated as if it were in response to a request under section 7 of the Data Protection Act 1998 (right of access to personal data).
- (2) Data sharing agreements exclusively for the purposes of the detection or prevention of fraud shall be described as: “Your data may be used for the purpose of the detection or prevention of fraud.””

After Clause 69 - continued

213D Insert the following new Clause –

“Creation of a digital system for lasting power of attorney

- (1) The Secretary of State must by regulations make provision for a fully digital process to apply for and create a lasting power of attorney, and for the verification by appropriate bodies of attorneys appointed under this process.
- (2) Regulations under subsection (1) may in particular –
 - (a) provide for the use of secure electronic signatures in place of any requirements for physical signatures;
 - (b) use electronic online methods to verify the identify of donors and proposed attorneys, either in conjunction with or in place of electronic or physical signatures;
 - (c) require at least one other person to be notified automatically when an application is made;
 - (d) permit in-depth checking of selected applications;
 - (e) require the involvement of a solicitor in the application process;
 - (f) create an offence of knowingly or recklessly providing false information in relation to an application for a lasting power of attorney, subject to a maximum penalty on summary conviction of a term of imprisonment not exceeding six months;
 - (g) provide for appropriate bodies to use secure online methods to verify the identity of an attorney or donor; and
 - (h) cover both health and welfare lasting power of attorney, and property and financial affairs lasting power of attorney.
- (3) Regulations under this section must be made by statutory instrument and may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

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

After Clause 70 - continued

- (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 CLEMENT-JONES
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.”

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.

After Clause 76 - continued

- (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.
- (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—

After Clause 76 - continued**“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.
 - (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.”

After Clause 76 - *continued*

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;
 - (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.

After Clause 76 - continued

- (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.”

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;

After Clause 79 - continued

- (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—
 - (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—

After Clause 79 - continued**“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.
- (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
 BARONESS BONHAM-CARTER OF YARNBURY
 LORD LOW OF DALSTON

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”.

After Clause 80 - continued

- (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—
- (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.”

After Clause 80 - continued

- (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.”
- (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.”

After Clause 84 - continued

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.
- (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 –

After Clause 84 - continued

- (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.
- (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 –

After Clause 84 - continued

- (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.””

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

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.

Before Schedule 4 - continued

- (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.””

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.

Before Schedule 4 - continued

- 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;
 - (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.

Before Schedule 4 - continued

- 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.
- 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.

Before Schedule 4 - continued

- 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.
- 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.

After Clause 87 - continued

(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.”

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.””

After Clause 87 - continued

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.
- (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.”

BARONESS JANKE
LORD CLEMENT-JONES

233A Insert the following new Clause—

“Duties on providers of social media services

After section 131 of the Communications Act 2003 (statement of policy on persistent misuse) insert—

“131A Duties on providers of social media services

- (1) In this section “social media service” means a website or application that enables users to create and share content, to communicate publicly and privately with other users, and to participate in social networking.
- (2) Social media services have a general duty to respond to reports of material shared or communicated via their website or application (“the content”) that passes the “criminal test” set out in subsection (3).
- (3) The criminal test is whether the content would, if published by other means, or communicated in person, cause a criminal offence to be committed.

After Clause 87 - continued

- (4) Social media services have a duty to provide a means for users to report content which, in the view of the user, meets the criminal test.
- (5) Social media services have a duty to remove content which demonstrably meets the criminal test within the prescribed period, and to inform the police.
- (6) The prescribed period must be set out in regulations made by the Secretary of State within 120 days of the commencement of this section.
- (7) Regulations under subsection (6) may prescribe different periods for different categories of social media services, to be determined by the number of users that service has at the time a report is made under the provisions of subsection (4).
- (8) Regulations made under this section must be made by statutory instrument, and may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

LORD STEVENSON OF BALMACARA
LORD CLEMENT-JONES

233B Insert the following new Clause –

“Amendment to section 90 of the Consumer Rights Act 2015

In section 90 of the Consumer Rights Act 2015 (duty to provide information about tickets), after subsection (4)(d) insert –

“(e) where the ticket is being sold online, the name of the seller of the ticket; the ticket reference or booking number; and any specific condition attached to the resale of the ticket.””

233C Insert the following new Clause –

“Secondary ticketing: details of seller

- (1) The Consumer Rights Act 2015 is amended as follows.
- (2) In section 90 (duty to provide information about tickets), after paragraph (3)(c) insert –
 - “(d) where the tickets are being sold online, whether or not the seller is a trader, and if so provide the name and address of the business trader, as defined by the Consumer Protection from Unfair Trading Regulations 2008.
- (3A) In subsection (3)(d) a trader is defined as a person who sells more than 10 tickets over a twelve month period through a secondary ticketing facility.””

233D Insert the following new Clause –

“Provision of electronic communication services for online secondary ticket sellers

Where a person who provides services for online electronic communication or for the storage of electronic data –

After Clause 87 - continued

- (a) becomes aware that those services are being used in connection with the commission of a breach of section 90 of the Consumer Rights Act 2015 (duty to provide information about tickets), and
 - (b) does not withdraw the services as soon as reasonably possible,
- the person is guilty of an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale.”

233E Insert the following new Clause—

“Primary ticket issuer action against online secondary ticketing facilities

- (1) Where a person has engaged, is engaging, or is proposing to engage, in conduct online which contravenes section 90 of the Consumer Rights Act 2015 (duty to provide information about tickets), the Court may on application by the primary ticket issuer grant an injunction—
 - (a) restraining the person from engaging in the conduct; and
 - (b) if it is desirable to do so in the Court's opinion, requiring the person to take such action as the Court sees fit, including the taking down of any online point of sale.
- (2) The Court may grant an interim injunction pending the determination of an application under subsection (1).
- (3) Where an event ticket issuer suffers loss or damage as a result of any action falling under subsection (1), the amount of the loss or damage may be recovered by action in the Court.
- (4) Where, on the application of an event ticket issuer, the Court is satisfied that a person has engaged in conduct which falls within subsection (1), the Court may make an order granting relief by way of an account of profits.
- (5) For the purpose of this section “Court” means the High Court.
- (6) In this section “primary ticket issuer” means an organisation or promoter with primary responsibility for the issuing of tickets to an event, including the setting of terms and conditions for the sale of those tickets.”

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*);”

Clause 89 - continued

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

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”

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

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

2 February 2017
