

# Digital Economy Bill

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## AMENDMENTS TO BE MOVED ON REPORT

*[Supplementary to the Revised Marshalled List]*

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### Clause 16

LORD ASHTON OF HYDE

Page 18, line 38, before “means” insert “(except in the expression “extreme pornographic material”)”

Page 19, line 17, at end insert—

- “(g) a video work that the video works authority has determined not to be suitable for a classification certificate to be issued in respect of it, if—
  - (i) it includes material (other than extreme pornographic material) that it is reasonable to assume from its nature was produced solely or principally for the purposes of sexual arousal, and
  - (ii) it is reasonable to assume from the nature of that material that its inclusion was among the reasons why the video works authority made that determination;
- (h) material (other than extreme pornographic material) that was included in a video work that the video works authority has determined not to be suitable for a classification certificate to be issued in respect of it, if it is reasonable to assume from the nature of the material—
  - (i) that it was produced solely or principally for the purposes of sexual arousal, and
  - (ii) that its inclusion was among the reasons why the video works authority made that determination;
- (i) any other material (other than extreme pornographic material) if it is reasonable to assume from the nature of the material—
  - (i) that it was produced solely or principally for the purposes of sexual arousal, and
  - (ii) that the video works authority would determine that a video work including it was not suitable for a classification certificate to be issued in respect of it.”

## Clause 22

LORD ASHTON OF HYDE

Page 23, line 44, leave out “prohibited” and insert “extreme pornographic”

Page 24, line 6, leave out paragraph (b) and insert—

“(b) state whether it is subsection (1)(a) that applies or subsection (1)(b) or both;”

Page 24, line 28, leave out “prohibited” and insert “extreme pornographic”

Page 24, line 33, leave out “prohibited” and insert “extreme pornographic”

## After Clause 22

LORD ASHTON OF HYDE

Insert the following new Clause—

### “Meaning of extreme pornographic material

- (1) In this Part “extreme pornographic material” means (subject to subsection (3)) material—
  - (a) whose nature is such that it is reasonable to assume that it was produced solely or principally for the purposes of sexual arousal, and
  - (b) which is extreme.
- (2) For the purposes of subsection (1)(b), material is extreme if—
  - (a) its content is as described in section 63(7) or (7A) of the Criminal Justice and Immigration Act 2008, and
  - (b) it is grossly offensive, disgusting or otherwise of an obscene character.
- (3) Material to which paragraphs (a) and (b) of subsection (1) apply is not “extreme pornographic material” if it is or was included in a classified video work, unless it is material to which subsection (4) applies.
- (4) This subsection applies to material—
  - (a) which has been extracted from a classified video work, and
  - (b) whose nature is such that it is reasonable to assume that it was extracted (with or without other material) solely or principally for the purposes of sexual arousal.
- (5) In this section—
 

“classified video work” means a video work in respect of which the video works authority has issued a classification certificate;

“video work” means a video work within the meaning of the Video Recordings Act 1984;

“the video works authority” has the meaning given in section 16 ;

“classification certificate” has the same meaning as in the Video Recordings Act 1984 (see section 7 of that Act);

“material” means—

  - (a) a still image or series of still images, with or without sound; or

**After Clause 22 - continued**

- (b) a series of visual images shown as a moving picture, with or without sound.”

**Clause 23**

LORD ASHTON OF HYDE

Page 25, line 6, leave out “prohibited” and insert “extreme pornographic”

Page 25, line 12, leave out paragraph (b) and insert –

- “(b) state whether it is subsection (1)(a) that applies or subsection (1)(b) or both;”

Page 26, line 17, leave out “prohibited” and insert “extreme pornographic”

Page 26, line 29, leave out “prohibited” and insert “extreme pornographic”

Page 26, leave out line 31

**Clause 25**

LORD ASHTON OF HYDE

Page 27, line 7, leave out “prohibited” and insert “extreme pornographic”

**Clause 27**

LORD ASHTON OF HYDE

Page 28, line 19, at end insert –

- ““extreme pornographic material” has the meaning given in section (Meaning of “extreme pornographic material”);”

Page 28, line 22, at end insert –

- ““pornographic material” has the meaning given in section 16 ;”

Page 28, line 23, at end insert –

- “(2) Section 22(3) of the Video Recordings Act 1984 (effect of alterations) applies for the purposes of this Part as it applies for the purposes of that Act.”

**Clause 39**

LORD ASHTON OF HYDE

Page 37, line 2, at end insert –

- “(8) In disclosing information under any of sections 31 to 35 , a person must have regard to the following codes of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998, so far as they apply to the information in question –

**Clause 39 - continued**

- (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
  - (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.
- (9) The duty in subsection (8) does not affect any other requirement for the person to have regard to a code of practice in disclosing the information.”

**Clause 42**

LORD ASHTON OF HYDE

Page 41, line 39, at end insert –

- “(7) In disclosing information under section 19AA, a civil registration official must have regard to the following codes of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998, so far as they apply to the information in question –
- (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
  - (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.
- (8) The duty in subsection (7) does not affect any other requirement for the civil registration official to have regard to a code of practice in disclosing the information.””

**Clause 48**

LORD ASHTON OF HYDE

Page 47, line 2, at end insert –

- “(8) In disclosing information under section 44 , a person must have regard to the following codes of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998, so far as they apply to the information in question –
- (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
  - (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.
- (9) The duty in subsection (8) does not affect any other requirement for the person to have regard to a code of practice in disclosing the information.”

**Clause 56**

LORD ASHTON OF HYDE

Page 55, line 14, at end insert –

- “(8) In disclosing information under section 52, a person must have regard to the following codes of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998, so far as they apply to the information in question –
- (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
  - (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.
- (9) The duty in subsection (8) does not affect any other requirement for the person to have regard to a code of practice in disclosing the information.”

**Clause 60**

LORD ASHTON OF HYDE

Page 59, line 6, at beginning insert “subject to sections 63(5), 64(5) and 65(5)(information disclosed by tax authorities),”

Page 59, line 7, leave out subsection (6)

**Clause 62**

LORD ASHTON OF HYDE

Page 61, line 1, leave out paragraph (b) and insert –

- “( ) for the purposes of enabling anything that is to be published as a result of the research to be reviewed before publication, where the disclosure is made to a person who is accredited under section 67 as a person to whom such information may be disclosed for that purpose”

**Clause 63**

LORD ASHTON OF HYDE

Page 62, line 42, at end insert “, or

- ( ) by a person to whom the information is disclosed by virtue of subsection (3).”

Page 62, line 46, leave out paragraph (b) and insert –

- “( ) for the purposes of enabling anything that is to be published as a result of the research to be reviewed before publication, where the disclosure is made to a person who is accredited under section 67 as a person to whom such information may be disclosed for that purpose”

**Clause 64**

LORD ASHTON OF HYDE

Page 63, line 39, at end insert “, or

- ( ) by a person to whom the information is disclosed by virtue of subsection (3).”

Page 63, line 43, leave out paragraph (b) and insert –

- “( ) for the purposes of enabling anything that is to be published as a result of the research to be reviewed before publication, where the disclosure is made to a person who is accredited under section 67 as a person to whom such information may be disclosed for that purpose”

**Clause 65**

LORD ASHTON OF HYDE

Page 64, line 43, at end insert “, or

- ( ) by a person to whom the information is disclosed by virtue of subsection (3).”

Page 65, line 3, leave out paragraph (b) and insert –

- “( ) for the purposes of enabling anything that is to be published as a result of the research to be reviewed before publication, where the disclosure is made to a person who is accredited under section 67 as a person to whom such information may be disclosed for that purpose”

**Clause 66**

LORD ASHTON OF HYDE

Page 66, line 23, at end insert –

- “(10) In disclosing information under section 60, a person must have regard to the following codes of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998, so far as they apply to the information in question –
  - (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
  - (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.
- (11) The duty in subsection (10) does not affect any other requirement for the person to have regard to a code of practice in disclosing the information.”

**Clause 70**

LORD HUNT OF WIRRAL  
LORD ASHTON OF HYDE

Insert the following new Clause –

**“Disclosure of employer reference information by HMRC**

- (1) A Revenue and Customs official may disclose employer reference information held by the Revenue and Customs to the Employers’ Liability Tracing Office for use by it for the permitted purpose.
- (2) The Employers’ Liability Tracing Office is the company registered in England and Wales with the company registration number 06964651.
- (3) The permitted purpose is the purpose of providing assistance in connection with –
  - (a) claims against an employer, or an employer’s insurer, arising from personal injury or death that occurred, or is alleged to have occurred, in the course of a person’s employment by that employer, or
  - (b) applications for a payment under the Diffuse Mesothelioma Payment Scheme established under the Mesothelioma Act 2014.
- (4) “Employer reference information” means any of the following information relating to an employer –
  - (a) the employer’s name and address;
  - (b) any combination of numbers, letters or characters that is uniquely associated with the employer and used by Revenue and Customs to identify or refer to the employer, whether generally or for particular purposes.
- (5) References in this section to an employer include references to a person who has at any time been an employer.
- (6) In this section –

“employer” and “employment” have the same meaning as in the employment income Parts of the Income Tax (Earnings and Pensions) Act 2003;

“Revenue and Customs official” has the meaning given by section 18(4)(a) of the Commissioners for Revenue and Customs Act 2005;

“the Revenue and Customs” has the meaning given by section 17(3) of that Act.”

**Clause 71**

LORD ASHTON OF HYDE

Page 69, line 29, at end insert –

- “( ) After subsection (4) insert –
  - “(4A) In disclosing information under subsection (1), the Commissioners or an officer of Revenue and Customs must have regard to the following codes of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998, so far as they apply to the information in question –

**Clause 71 - continued**

- (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
  - (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.
- (4B) The duty in subsection (4A) to have regard to a code of practice does not affect any other requirement for the Commissioners or an officer of Revenue and Customs to have regard to a code of practice under the Data Protection Act 1998 in disclosing the information.
- (4C) In determining how to comply with the duty in subsection (4A) the Commissioners or the officer of Revenue and Customs must have regard to any views of the Board which are communicated to the Commissioners or the officer.”

**Clause 72**

LORD ASHTON OF HYDE

Page 70, line 18, at end insert –

- “(7A) In disclosing information under subsection (1), a public authority must have regard to the following codes of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998, so far as they apply to the information in question –
- (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
  - (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.
- (7B) The duty in subsection (7A) to have regard to a code of practice does not affect any other requirement for the public authority to have regard to a code of practice under the Data Protection Act 1998 in disclosing the information.
- (7C) In determining how to comply with the duty in subsection (4A) the public authority must have regard to any views of the Board which are communicated to the authority.”

**Clause 73**

LORD ASHTON OF HYDE

Page 76, line 18, at end insert –

- “(11) In exercising any of its functions under section 45B, 45C or 45D to require the disclosure of information, the Board must have regard to any code of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998 which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information, so far as the code applies to the information in question.



**Clause 73 - continued**

- (12) The duty in subsection (11) to have regard to a code of practice does not affect any other requirement for the Board to have regard to a code of practice under the Data Protection Act 1998 in exercising the function.”

**Clause 74**

LORD ASHTON OF HYDE

Page 78, line 39, at end insert –

- “(8A) In disclosing information under subsection (1), the Board must have regard to the following codes of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998, so far as they apply to the information in question –
- (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
  - (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.
- (8B) The duty in subsection (8A) to have regard to a code of practice does not affect any other requirement for the Board to have regard to a code of practice under the Data Protection Act 1998 in disclosing the information.”

**Before Clause 75**

LORD ASHTON OF HYDE

Insert the following new Clause –

*“Guarantee of pension liabilities under Telecommunications Act 1984***Guarantee of pension liabilities under Telecommunications Act 1984**

- (1) The Secretary of State may make regulations modifying or supplementing section 68 of the Telecommunications Act 1984 (liability of Secretary of State in respect of British Telecommunications public limited company’s liabilities as successor for payment of pensions) in accordance with subsection (4) or (5).
- (2) Subsection (4) applies in relation to a transfer of relevant employees from British Telecommunications public limited company (“BTplc”) to another company (a “transferee”) in connection with a transfer of any part of the undertaking of BTplc (whether or not to the transferee).
- (3) Employees are relevant if the liability of BTplc for the payment of pensions which vested in it by virtue of section 60 of the Telecommunications Act 1984 included, immediately before the transfer of the employees from BTplc, liability for the payment of pensions to or in respect of those employees.
- (4) The regulations may provide for the Secretary of State (in addition to any liability apart from the regulations) to become liable –
  - (a) on the winding up of BTplc, to discharge any outstanding liability of BTplc for the payment of pensions to or in respect of relevant employees of the transferee or a successor;

**Before Clause 75 - continued**

- (b) on the winding up of the transferee or a successor, to discharge any outstanding liability of the transferee or successor for the payment of pensions to or in respect of relevant employees.
- (5) The regulations may provide for any liability that the Secretary of State is liable to discharge under section 68 of the Telecommunications Act 1984 or under regulations under this section not to include liability arising by virtue of a person's employment on or after a specified date, or by virtue of anything else occurring on or after a specified date.
- (6) The specified date must be not earlier than the date on which the regulations come into force.
- (7) The power to make regulations under this section is exercisable so as to—
  - (a) make provision in relation to all cases or circumstances to which the power extends or in relation to specified cases or circumstances;
  - (b) in particular, make provision in relation to all employees to whom the power extends or in relation to employees of a specified description;
  - (c) make different provision for different purposes.
- (8) The regulations may—
  - (a) amend section 68 of the Telecommunications Act 1984;
  - (b) re-enact any provision of that section with or without modifications.
- (9) In this section references to the winding up of a company are references to—
  - (a) the passing of a resolution, in accordance with the Insolvency Act 1986, for the voluntary winding up of the company, or
  - (b) the making of an order for the winding up of the company by the court under that Act.
- (10) In this section—
  - “specified” means specified in regulations under this section;
  - “successor” means—
    - (a) any person to which relevant employees of a transferee are transferred;
    - (b) where there has been an earlier transfer to a successor, any person to which relevant employees of any successor are transferred.”

Insert the following new Clause—

**“Regulations under section (*Guarantee of pension liabilities under Telecommunications Act 1984*)**

- (1) The power to make regulations under section (*Guarantee of pension liabilities under Telecommunications Act 1984*) is exercisable by statutory instrument.
- (2) That power is exercisable by the Secretary of State only with the consent of the Treasury.
- (3) A statutory instrument containing regulations under that 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.

**Before Clause 75 - continued**

- (4) Before making regulations under that section the Secretary of State must consult—
- (a) the Pensions Regulator;
  - (b) BT plc;
  - (c) the trustees of the BT Pensions Scheme;
  - (d) any transferee or successor to which the regulations apply;
  - (e) any other persons the Secretary of State considers it appropriate to consult.”

**After Clause 87**

LORD ASHTON OF HYDE

Insert the following new Clause—

*“Televising events of national interest*

**Televising events of national interest: power to amend qualifying conditions**

In section 98 of the Broadcasting Act 1996 (categories of service), after subsection (5) insert—

- “(5A) The Secretary of State may, by regulations made by statutory instrument, amend the percentage figure specified for the time being in subsection (2)(b).
- (5B) An amendment made by regulations under this section does not affect—
- (a) the validity of any contract entered into before the regulations came into force, or
  - (b) the exercise of any rights acquired under such a contract.
- (5C) Regulations under subsection (5A) may make transitional, transitory or saving provision.
- (5D) A statutory instrument containing regulations under subsection (5A) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

**Before Clause 88**

LORD ASHTON OF HYDE

Insert the following new Clause—

**“Strategic priorities and provision of information**

- (1) After section 2 of the Communications Act 2003 insert—

*“Strategic priorities*

**2A Statement of strategic priorities**

- (1) The Secretary of State may designate a statement for the purposes of this section if the requirements set out in section 2C (consultation and parliamentary procedure) are satisfied.

**Before Clause 88 - continued**

- (2) The statement is a statement prepared by the Secretary of State that sets out strategic priorities of Her Majesty's Government in the United Kingdom relating to—
  - (a) telecommunications,
  - (b) the management of the radio spectrum, and
  - (c) postal services.
- (3) The statement may, among other things, set out particular outcomes identified with a view to achieving the strategic priorities.
- (4) This section does not restrict the Secretary of State's powers under any other provision of this Act or any other enactment.
- (5) A statement designated under subsection (1) must be published in such manner as the Secretary of State considers appropriate.
- (6) A statement designated under subsection (1) may be amended (including by replacing the whole or a part of the statement with new content) by a subsequent statement designated under that subsection, and this section and sections 2B and 2C apply in relation to any such subsequent statement as in relation to the original statement.
- (7) Except as provided by subsection (8), no amendment may be made under subsection (6) within the period of 5 years beginning with the day on which a statement was most recently designated under subsection (1).
- (8) An earlier amendment may be made under subsection (6) if—
  - (a) since that day—
    - (i) a Parliamentary general election has taken place, or
    - (ii) there has been a significant change in the policy of Her Majesty's government affecting any matter mentioned in subsection (2)(a), (b) or (c), or
  - (b) the Secretary of State considers that the statement, or any part of it, conflicts with any of OFCOM's general duties (within the meaning of section 3).

**2B Duties of OFCOM in relation to strategic priorities**

- (1) This section applies where a statement has been designated under section 2A(1).
- (2) OFCOM must have regard to the statement when carrying out—
  - (a) their functions relating to telecommunications,
  - (b) their functions under the enactments relating to the management of the radio spectrum, and
  - (c) their functions relating to postal services.
- (3) OFCOM must within the period of 40 days beginning with the day on which the statement is designated, or such longer period as the Secretary of State may allow—
  - (a) explain in writing what they propose to do in consequence of the statement, and
  - (b) publish a copy of that explanation in such manner as OFCOM consider appropriate.
- (4) OFCOM must, as soon as practicable after the end of—

**Before Clause 88 - continued**

- (a) the period of 12 months beginning with the day on which the first statement is designated under section 2A(1), and
  - (b) every subsequent period of 12 months,
- publish a review of what they have done during the period in question in consequence of the statement.

**2C Consultation and parliamentary procedure**

- (1) This section sets out the requirements that must be satisfied in relation to a statement before the Secretary of State may designate it under section 2A.
  - (2) The Secretary of State must consult the following on a draft of the statement—
    - (a) OFCOM, and
    - (b) such other persons as the Secretary of State considers appropriate.
  - (3) The Secretary of State must allow OFCOM a period of at least 40 days to respond to any consultation under subsection (2)(a).
  - (4) After that period has ended the Secretary of State—
    - (a) must make any changes to the draft that appear to the Secretary of State to be necessary in view of responses to the consultation, and
    - (b) must then lay the draft before Parliament.
  - (5) The Secretary of State must then wait until the end of the 40-day period and may not designate the statement if, within that period, either House of Parliament resolves not to approve it.
  - (6) “The 40-day period” is the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House on the same day, the later of the days on which it is laid).
  - (7) When calculating the 40-day period, ignore any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.”
- (2) After section 24 of that Act insert—

**“24A Provision of information before publication**

- (1) OFCOM must provide the Secretary of State, at least 24 hours before publication, with any information that they propose to publish.
- (2) If exceptional circumstances make it impracticable to provide the information to the Secretary of State 24 hours before publication it must instead be provided to the Secretary of State as long before publication as is practicable.
- (3) Subsections (1) and (2) have effect in any particular case subject to any agreement made between the Secretary of State and OFCOM in that case.
- (4) The Secretary of State may by regulations specify descriptions of information in relation to which the duty under subsection (1) does not apply.
- (5) Before making regulations under subsection (4), the Secretary of State must consult OFCOM.

**Before Clause 88 - continued**

- (6) Information provided to the Secretary of State under this section may not be disclosed by the Secretary of State during the protected period, except to another Minister of the Crown.
- (7) A Minister of the Crown to whom the information is disclosed under subsection (6) may not disclose the information during the protected period to any other person.
- (8) A Minister of the Crown may not make any representations to OFCOM during the protected period that specify or describe changes that the Minister considers should be made to information that has been provided under this section when it is published.
- (9) In this section –
  - “the protected period”, in relation to information provided to the Secretary of State under this section, means the period beginning with the provision of the information and ending when either of the following occurs –
    - (a) OFCOM publish the information;
    - (b) OFCOM inform the Secretary of State that they consent to the disclosure of the information;
  - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

**24B Provision of information to assist in formulation of policy**

- (1) OFCOM may provide the Secretary of State with any information that they consider may assist the Secretary of State in the formulation of policy.
- (2) Information with respect to a particular business that has been obtained in the exercise of a power conferred by –
  - (a) this Act,
  - (b) the 1990 Act,
  - (c) the 1996 Act,
  - (d) the Wireless Telegraphy Act 2006, or
  - (e) Part 3 of the Postal Services Act 2011,
 is not, so long as the business continues to be carried on, to be provided to the Secretary of State under this section without the consent of the person for the time being carrying on that business.”
- (3) The duty under subsection (1) of section 24A of that Act does not have effect until the day on which regulations made under subsection (4) of that section first come into force.
- (4) In section 393(6) of that Act (general restrictions on disclosure of information), after paragraph (a) insert –
  - “(za) prevents the disclosure of information under section 24A or 24B;”.
- (5) In section 111(7) of the Wireless Telegraphy Act 2006 (general restrictions on disclosure of information), after paragraph (a) insert –
  - “(aa) prevents the disclosure of information under section 24A or 24B of that Act;”.
- (6) In section 56 of the Postal Services Act 2011 (general restrictions on disclosure of information), after subsection (6) insert –

**Before Clause 88 - continued**

“(6A) Nothing in this section prevents the disclosure of information under section 24A or 24B of the Communications Act 2003.”

**After Clause 91**

LORD ASHTON OF HYDE

Insert the following new Clause—

*“Offence of breaching limits on ticket sales*

**Power to create offence of breaching limits on internet and other ticket sales**

- (1) The Secretary of State may make regulations providing that it is an offence for a person in circumstances within subsection (2) to do an act within subsection (3).
- (2) Circumstances are within this subsection if each of the following applies—
  - (a) tickets for a recreational, sporting or cultural event in the United Kingdom are offered for sale,
  - (b) a purchase may be made wholly or partly by a process that the purchaser completes using an electronic communications network or an electronic communications service, and
  - (c) the offer is subject to conditions that limit the number of tickets a purchaser may buy.
- (3) An act is within this subsection if it consists in using anything that enables or facilitates completion of any part of a process within subsection (2)(b) with intent to obtain tickets in excess of a limit imposed by conditions within subsection (2)(c).
- (4) The regulations may apply whether the offer is made, or anything is done to obtain tickets, in or outside the United Kingdom.
- (5) The regulations—
  - (a) may be limited to particular circumstances within subsection (2), and to particular acts within subsection (3);
  - (b) may provide for an offence to be subject to an exception or defence;
  - (c) may make different provision for different areas.
- (6) The regulations must provide in England and Wales and Scotland for an offence to be triable only summarily.
- (7) The regulations may not provide for an offence to be punishable—
  - (a) with imprisonment,
  - (b) in Scotland, with a fine exceeding £50,000, or
  - (c) in Northern Ireland, if tried summarily, with a fine exceeding the statutory maximum.
- (8) The power to make regulations under this section is exercisable by statutory instrument.
- (9) 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.

**After Clause 91 - continued**

- (10) In this section “electronic communications network” and “electronic communications service” have the meaning given by section 32 of the Communications Act 2003.”

**After Clause 92**

## LORD ASHTON OF HYDE

Insert the following new Clause—

**“Regulations about charges payable to the Information Commissioner**

- (1) The Secretary of State may by regulations require data controllers to pay charges of an amount specified in the regulations to the Information Commissioner.
- (2) Regulations under subsection (1) may require a data controller to pay a charge regardless of whether the Information Commissioner has provided, or proposes to provide, a service to the data controller.
- (3) Regulations under subsection (1) may make provision about the time or times at which, or period or periods within which, a charge must be paid.
- (4) Regulations under subsection (1) may make provision—
  - (a) for different charges to be payable in different cases;
  - (b) for cases in which a discounted charge is payable;
  - (c) for cases in which no charge is payable;
  - (d) for cases in which a charge which has been paid is to be refunded.
- (5) The Secretary of State may by regulations make provision—
  - (a) requiring a data controller to provide information to the Information Commissioner, or
  - (b) enabling the Commissioner to require a data controller to provide information to the Commissioner,
 for either or both of the purposes mentioned in subsection (6).
- (6) Those purposes are—
  - (a) determining whether a charge is payable by the data controller under regulations under subsection (1);
  - (b) determining the amount of a charge payable by the data controller.
- (7) The provision that may be made under subsection (5)(a) includes, in particular, provision requiring a data controller to notify the Information Commissioner of a change in the data controller’s circumstances of a kind specified in the regulations.
- (8) In this section “data controller” means a person who, alone or jointly with others, determines the purposes and means of the processing of personal data.
- (9) In subsection (8) “personal data” means any information relating to an identified or identifiable individual.
- (10) For this purpose an individual is “identifiable” if the individual can be identified, directly or indirectly, in particular by reference to—



**After Clause 92 - continued**

- (a) an identifier such as a name, an identification number, location data or an online identifier, or
  - (b) one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.
- (11) Where the purposes and means of the processing of personal data are determined by or on behalf of the House of Commons or House of Lords, other than where they are determined by or on behalf of the Intelligence and Security Committee of Parliament, the data controller in respect of those data for the purposes of this section is the Corporate Officer of that House.”

Insert the following new Clause –

**“Functions relating to regulations under section (*Regulations about charges payable to the Information Commissioner*)**

- (1) Before making regulations under section (*Regulations about charges payable to the Information Commissioner*)(1) or (5) the Secretary of State must consult the Information Commissioner.
- (2) In making regulations under section (*Regulations about charges payable to the Information Commissioner*)(1), the Secretary of State must have regard to the desirability of securing that the charges payable to the Information Commissioner under such regulations are sufficient to offset –
  - (a) expenses incurred by the Commissioner in discharging the Commissioner’s functions –
    - (i) under the Data Protection Act 1998,
    - (ii) under the General Data Protection Regulation,
    - (iii) under regulations which implement the General Data Protection Regulation or the Criminal Data Directive,
    - (iv) by virtue of section (*Regulations about charges payable to the Information Commissioner*), and
    - (v) under this section,
  - (b) any expenses of the Secretary of State in respect of the Commissioner so far as attributable to those functions,
  - (c) to the extent that the Secretary of State considers appropriate, any deficit previously incurred (whether before or after the passing of this Act) in respect of the expenses mentioned in paragraph (a), and
  - (d) to the extent that the Secretary of State considers appropriate, expenses incurred by the Secretary of State in respect of the inclusion of any officers or staff of the Commissioner in any scheme under section 1 of the Superannuation Act 1972.
- (3) In subsection (2) –
 

“the Criminal Data Directive” means Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA;

**After Clause 92 - continued**

“the General Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

- (4) The Secretary of State may from time to time require the Information Commissioner to provide information about the expenses referred to in subsection (2)(a).
- (5) The Information Commissioner must keep under review the working of regulations under section (*Regulations about charges payable to the Information Commissioner*)(1) or (5) and may from time to time submit proposals to the Secretary of State for amendments to be made to the regulations.
- (6) The Secretary of State must review the working of regulations under section (*Regulations about charges payable to the Information Commissioner*)(1) or (5) –
  - (a) at the end of the period of five years beginning with the making of the first set of regulations under that section, and
  - (b) at the end of each subsequent five year period.”

Insert the following new Clause –

**“Supplementary provision relating to section (*Regulations about charges payable to the Information Commissioner*)**

- (1) Regulations under section (*Regulations about charges payable to the Information Commissioner*)(1) or (5) are to be made by statutory instrument.
- (2) A statutory instrument containing regulations under section (*Regulations about charges payable to the Information Commissioner*)(1) or (5) is to be laid before Parliament after being made.
- (3) Regulations under section (*Regulations about charges payable to the Information Commissioner*)(1) or (5) –
  - (a) may make different provision for different purposes;
  - (b) may make transitional, transitory or saving provision;
  - (c) may make incidental, supplemental or consequential provision.
- (4) Regulations under section (*Regulations about charges payable to the Information Commissioner*)(1) or (5) may bind the Crown.
- (5) But regulations under section (*Regulations about charges payable to the Information Commissioner*)(1) or (5) may not apply to –
  - (a) Her Majesty in Her private capacity,
  - (b) Her Majesty in right of the Duchy of Lancaster, or
  - (c) the Duke of Cornwall.
- (6) For the purposes of section (*Regulations about charges payable to the Information Commissioner*) each government department is to be treated as a person separate from any other government department.
- (7) In subsection (6) “government department” includes –
  - (a) any part of the Scottish Administration;

**After Clause 92 - continued**

- (b) a Northern Ireland department;
- (c) the Welsh Government;
- (d) any body or authority exercising statutory functions on behalf of the Crown.”

Insert the following new Clause –

**“Amendments relating to section (Regulations about charges payable to the Information Commissioner)**

- (1) The Data Protection Act 1998 is amended in accordance with subsections (2) to (7).
- (2) Omit Part 3 (notification by data controllers).
- (3) In section 33A(1)(manual data held by public authorities) omit paragraph (e)(but not the “and” following that paragraph).
- (4) In section 71 (index of defined expressions) omit the entries relating to “address”, “fees regulations”, “notification requirements”, “prescribed” and “registrable particulars”.
- (5) In Part 2 of Schedule 1 (interpretation of the data protection principles) in paragraph 5 omit paragraph (b) and the “or” preceding that paragraph.
- (6) In Part 1 of Schedule 5 (the Information Commissioner) in paragraph 9(1)(destination of fees etc) after “the Freedom of Information Act 2000” insert “and all charges received by the Commissioner under regulations under section (*Regulations about charges payable to the Information Commissioner*) (1) of the Digital Economy Act 2017”.
- (7) In Schedule 14 (transitional provisions and savings) omit paragraph 2 (registration under Part 2 of the Data Protection Act 1984).
- (8) In regulation 5(3)(b) of the High Court Enforcement Officers Regulations 2004 (SI 2004/400)(application procedure) omit paragraph (iii).
- (9) In consequence of the repeal in subsection (2) the following are repealed or revoked –
  - (a) section 71 of the Freedom of Information Act 2000;
  - (b) in paragraph 6 of Schedule 2 to the Transfer of Functions (Miscellaneous) Order 2001 (SI 2001/3500) –
    - (i) in sub-paragraph (1), paragraphs (h) to (m), and
    - (ii) sub-paragraph (2);
  - (c) in paragraph 9(1)(a) of Schedule 2 to the Secretary of State for Constitutional Affairs Order 2003 (SI 2003/1887), the words “16, 17, 22, 23, 25, 26,”;
  - (d) Part 1 of Schedule 20 to the Coroners and Justice Act 2009;
  - (e) paragraph 26 of Schedule 2 to the Transfer of Tribunal Functions Order 2010 (SI 2010/22).”

**Clause 97**

LORD ASHTON OF HYDE

Page 100, line 24, at end insert –

“( ) sections (*Guarantee of pension liabilities under Telecommunications Act 1984*) and (*Regulations under section (Guarantee of pension liabilities under Telecommunications Act 1984)*);”

Page 100, line 37, at end insert –

“( ) section (*Televising events of national interest: power to amend qualifying conditions*);”

Page 101, line 18, at end insert “or different areas”

Page 101, line 18, at end insert –

- “(9) The appropriate authority may by regulations made by statutory instrument make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act.
- (10) Subsection (9) does not apply to section 4 or Schedule 1 (for which see section 5).
- (11) The appropriate authority, subject to subsection (12), is the Secretary of State.
- (12) The appropriate authority in relation to Part 5 is –
- (a) the Secretary of State, in relation to Chapter 2;
  - (b) the Welsh Ministers, in relation to –
    - (i) Chapter 1 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, and
    - (ii) Chapters 5 and 6 so far as relating to the disclosure of information by the Welsh Revenue Authority;
  - (c) otherwise, the Secretary of State or the Minister for the Cabinet Office.”

**In the Title**

LORD ASHTON OF HYDE

Line 4, after “data-sharing;” insert “to make provision in connection with section 68 of the Telecommunications Act 1984;”

Line 10, after “offences;” insert “to confer power to create an offence of breaching limits on ticket sales;”

Line 10, after “offences;” insert “to make provision about the payment of charges to the Information Commissioner;”

# Digital Economy Bill

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AMENDMENTS  
TO BE MOVED  
ON REPORT

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*13 March 2017*

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