

# Digital Economy Bill

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SECOND  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*The amendments have been marshalled in accordance with the Order of 20th February 2017, as follows –*

Clauses 1 to 4	Clauses 31 to 94
Schedules 1 to 3	Schedule 4
Clauses 5 to 14	Clauses 95 to 99
Clauses 28 to 30	Title
Clauses 15 to 27	

*[Amendments marked ★ are new or have been altered]*

**Amendment  
No.**

**Clause 15**

LORD ASHTON OF HYDE

- 25B** Page 18, line 7, leave out subsection (1) and insert –  
“(1) A person contravenes this subsection if the person makes pornographic material available on the internet to persons in the United Kingdom on a commercial basis other than in a way that secures that, at any given time, the material is not normally accessible by persons under the age of 18.”
- 25C** Page 18, line 11, leave out subsection (2)
- 25D** Page 18, line 16, at end insert –  
“(2A) The Secretary of State may make regulations specifying, for the purposes of this Part, circumstances in which material is or is not to be regarded as made available on a commercial basis.  
(2B) The regulations may, among other things, prescribe circumstances in which material made available free of charge is, or is not, to be regarded as made available on a commercial basis.  
(2C) Regulations under subsection (2A) may provide for circumstances to be treated as existing where it is reasonable to assume that they exist.”
- 25E** Page 18, line 17, leave out subsection (3)

**Clause 15 - continued****25F** Page 18, line 36, at end insert—

- “( ) Regulations under subsection (2A) may make different provision for different purposes.
- ( ) Regulations under subsection (2A) are to be made by statutory instrument.
- ( ) A statutory instrument containing regulations under subsection (2A) is subject to annulment in pursuance of a resolution of either House of Parliament.
- ( ) But a statutory instrument containing the first regulations under that subsection may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

**Clause 16**

LORD ASHTON OF HYDE

**25G** Page 18, line 38, before “means” insert “(except in the expression “extreme pornographic material”)”**25H** 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 17

BARONESS JONES OF WHITCHURCH  
LORD STEVENSON OF BALMACARA  
LORD CLEMENT-JONES

**25J** Page 19, line 47, leave out “may” and insert “must”

BARONESS JONES OF WHITCHURCH  
LORD STEVENSON OF BALMACARA

**25K** Page 19, line 47, leave out “any person, or any”

LORD ASHTON OF HYDE

**25L** Page 19, line 48, leave out “this Part” and insert “—

- (a) all of the functions of the age-verification regulator under this Part, or
- (b) any of those functions specified in the notice by which the designation is made.

( ) Different persons may be designated for the purposes of different functions.”

**25M** Page 20, line 8, leave out from “that” to end of line 9 and insert “—

- (a) arrangements will be maintained by the age-verification regulator for appeals to which subsection (4A) applies, and
- (b) any person hearing an appeal under those arrangements will be sufficiently independent of the age-verification regulator.

(4A) This subsection applies to appeals —”

LORD CLEMENT-JONES  
LORD PADDICK

*As an amendment to Amendment 25M*

**25N★** In paragraph (b), leave out “sufficiently”

BARONESS JONES OF WHITCHURCH  
LORD STEVENSON OF BALMACARA

**25P★** Page 20, line 27, at end insert —

- “(8) In designating two or more persons under subsection (1), the Secretary of State must specify that the same persons may not carry out functions under the sections specified in subsection (9), and the functions specified in subsection (10).
- (9) The functions specified in this subsection are the steps taken by the age verification regulator to identify that a person is —
  - (a) contravening section 15(1);
  - (b) making extreme pornographic material available on the internet to persons in the United Kingdom.
- (10) The functions specified in this subsection are the enforcement powers under sections 20 to 23.

**Clause 17 - continued**

- (11) The person or persons carrying out the age verification functions under subsection (9) must notify the person or persons carrying out the enforcement functions under subsection (10) of an identification under subsection (9), to enable that person or persons to take the necessary enforcement action.
- (12) Appeals procedures must be carried out by a body that is fully independent of the regulator responsible for the functions set out in subsection (9).
- (13) The regulator assuming the duties specified in subsection (9) is to be a body corporate which is independent from the Government and all appointments to the regulator are to be subject to fair and open competition.
- (14) No designation shall be made under this section until the Secretary of State consults all such persons as he or she considers appropriate on the role of the age-verification regulator for the purposes of this Part.”

**Clause 18**

LORD ASHTON OF HYDE

**25Q** Page 20, line 29, leave out subsection (1) and insert –

- “(1) Where the Secretary of State proposes to make a designation under section 17 , the Secretary of State must lay before both Houses of Parliament –
- (a) particulars of that proposed designation, and
  - (b) a statement of the reasons why the Secretary of State is satisfied about the matters mentioned in section 17(4).”

**25R** Page 20, line 35, at end insert –

- “(3A) But subsection (3B) applies, instead of subsections (2) and (3), where the proposed designation would be –
- (a) the first to be made under section 17 , or
  - (b) the first to be made under that section for the purposes of a particular function.
- (3B) The Secretary of State may not make the designation unless it has been approved by a resolution of each House of Parliament.”

**25S** Page 20, line 36, leave out “subsection (3) is” and insert “subsections (3) and (3A) are”**Clause 21**

LORD ASHTON OF HYDE

**25T** Page 23, line 24, at end insert –

- “( ) The Secretary of State must lay before both Houses of Parliament the guidelines, and any revised guidelines, published under this section.”

**Clause 22**

LORD ASHTON OF HYDE

**25U** Page 23, line 44, leave out “prohibited” and insert “extreme pornographic”

**Clause 22 - continued**

- 25V** 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;”
- 25W** Page 24, line 11, leave out subsection (4)
- 25X** Page 24, line 28, leave out “prohibited” and insert “extreme pornographic”
- 25Y** Page 24, line 33, leave out “prohibited” and insert “extreme pornographic”
- 25YA** Page 24, line 39, leave out subsection (7)
- 25YB** Page 24, line 43, leave out subsection (8)

**After Clause 22**

## LORD ASHTON OF HYDE

- 25YC** 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 ;

**After Clause 22 - continued**

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

BARONESS BUTLER-SLOSS  
LORD MCCOLL OF DULWICH  
LORD ALTON OF LIVERPOOL  
BARONESS HOWE OF IDLICOTE

**25YD★** Insert the following new Clause –

**“Extreme pornographic material: review and repeal**

- (1) Subject to subsections (2) to (6) at the end of the period of three years beginning with the day on which this Act is passed –
  - (a) section 16(1)(g) to (i) ceases to have effect;
  - (b) section (meaning of extreme pornographic material) (1) and (2) ceases to have effect, and is substituted with the following, which comes into force on that day –
    - “(1) In this section “extreme pornographic material” means either of the following –
      - (a) the whole or part of a video work –
        - (i) if it is reasonable to assume from its nature that the video work was produced solely or principally for the purposes of sexual arousal, and
        - (ii) if the video works authority has determined the video work not to be suitable for a classification certificate to be issued in respect of it;
      - (b) material whose nature is such that it is reasonable to assume –
        - (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.”
- (2) Following the publication of a report under subsection (3) the Secretary of State may by regulations made by statutory instrument provide that the provisions of this Act do not cease to have effect in accordance with this section but are to continue in force indefinitely or for a specified period of time.
- (3) The Secretary of State must, within a period of two years beginning with the day on which this Act is passed, review and prepare a report on the operation of the provisions mentioned in subsection (6).
- (4) The review and report must consider the effect of the introduction of the definition of “extreme pornographic material” on the regulation of pornographic material under this Act and other enactments.

**After Clause 22 - continued**

- (5) The Secretary of State must lay a copy of the report before each House of Parliament.
- (6) The sections are—
- (a) section 16,
  - (b) section 22,
  - (c) section (meaning of extreme pornographic material),
  - (d) section 23,
  - (e) section 25,
  - (f) section 27.”
- (7) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by, a resolution of each House of Parliament.”

**Clause 23**

LORD ASHTON OF HYDE

- 25YE** Page 25, line 6, leave out “prohibited” and insert “extreme pornographic”
- 25YF** 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;”
- 25YG** Page 25, line 22, leave out “mentioned in section 17(4)(d)” and insert “to which section 17(4A)(d) applies”
- 25YH** Page 26, line 17, leave out “prohibited” and insert “extreme pornographic”
- 25YJ** Page 26, line 22, leave out “mentioned in section 17(4)(e)” and insert “to which section 17(4A)(e) applies”
- 25YK** Page 26, line 29, leave out “prohibited” and insert “extreme pornographic”
- 25YL** Page 26, leave out line 31

**After Clause 24**

LORD ASHTON OF HYDE

- 25YM** Insert the following new Clause—
- “Guidance to be published by age-verification regulator**
- (1) Subject to the following provisions of this section, the age-verification regulator must publish, and revise from time to time—
- (a) guidance about the types of arrangements for making pornographic material available that the regulator will treat as complying with section 15(1); and

**After Clause 24 - continued**

- (b) guidance for the purposes of section 22(1) and (6) about the circumstances in which it will treat services provided in the course of a business as enabling or facilitating the making available of pornographic material or extreme pornographic material.
- (2) Once the regulator has prepared a draft of guidance it proposes to publish under subsection (1)(a), it must submit the draft to the Secretary of State.
- (3) When draft guidance is submitted to the Secretary of State under subsection (2), the Secretary of State must lay that draft guidance before both Houses of Parliament.
- (4) Once the regulator has prepared a draft of guidance it proposes to publish under subsection (1)(b), it must submit the draft to the Secretary of State for approval.
- (5) When draft guidance is submitted to the Secretary of State under subsection (4), the Secretary of State may approve it either without modification or with such modifications as the Secretary of State decides should be made to it.
- (6) Once the Secretary of State has approved draft guidance under subsection (5), the Secretary of State must lay the following before both Houses of Parliament—
  - (a) the draft guidance, incorporating any modifications the Secretary of State has decided should be made to it under that subsection, and
  - (b) if the draft incorporates such modifications, a statement of the Secretary of State's reasons for deciding that those modifications should be made.
- (7) If, within the period of 40 days beginning with the day on which draft guidance is laid before Parliament under subsection (3) or (6), either House resolves not to approve that draft guidance, the age-verification regulator must not publish guidance in the form of that draft.
- (8) If no such resolution is made within that period, the age-verification regulator must publish the guidance in the form of the draft laid before Parliament.
- (9) But subsection (11) applies, instead of subsections (7) and (8), in a case falling within subsection (10).
- (10) The cases falling within this subsection are—
  - (a) the case where draft guidance is laid before Parliament under subsection (3) and no previous guidance has been published under subsection (1)(a) by the age-verification regulator; and
  - (b) the case where draft guidance is laid before Parliament under subsection (6) and no previous guidance has been published under subsection (1)(b) by the age-verification regulator.
- (11) The regulator must not publish guidance in the form of the draft laid before Parliament unless the draft has been approved by a resolution of each House of Parliament.
- (12) Subsections (7) and (11) do not prevent new draft guidance from being laid before Parliament.
- (13) For the purposes of subsection (7)—

**After Clause 24 - continued**

- (a) where draft guidance is laid before each House of Parliament on different days, the later day is to be taken as the day on which it was laid before both Houses, and
  - (b) in reckoning any period of 40 days, no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.
- (14) References in this section to guidance and draft guidance include references to revised guidance and draft revised guidance.”

LORD PADDICK  
LORD CLEMENT-JONES

25YN

Insert the following new Clause –

**“Anonymity**

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

**Clause 25**

LORD ASHTON OF HYDE

**25YP** Page 27, line 7, leave out “prohibited” and insert “extreme pornographic”

**After Clause 25**

LORD ASHTON OF HYDE

**25YQ** Insert the following new Clause –

**“Guidance by Secretary of State to regulator**

- (1) The Secretary of State may issue guidance to the age-verification regulator in relation to the exercise of the regulator’s functions, and may from time to time revise that guidance.
- (2) The guidance may cover (among other things) the following matters –
  - (a) considerations to be applied in determining –
    - (i) whether arrangements for making pornographic material available comply with section 15(1);
    - (ii) whether a person is an ancillary service provider, for the purposes of section 22;
  - (b) the approach to be taken by the regulator to the exercise of its powers to give notices under sections 20 , 22 and 23;
  - (c) the preparation and publication of guidance and reports by the regulator and the content of such guidance and reports;
  - (d) the maintenance by the regulator of arrangements meeting the requirements of section 17(4)(a) and (b).
- (3) The regulator must have regard to the guidance.
- (4) The Secretary of State must lay before both Houses of Parliament the guidance, and any revised guidance, issued under this section.”

**After Clause 26**

BARONESS JONES OF WHITCHURCH  
BARONESS JANKE  
LORD CLEMENT-JONES  
BARONESS HOWE OF IDLICOTE

**25YR** Insert the following new Clause –

**“Code of practice for commercial social media platform providers on online abuse**

- (1) Within six months of the passing of this Act, the Secretary of State must publish a code of practice about the responsibilities of social media platform providers to protect children and young people from online abuse and bullying.
- (2) The Secretary of State may bring the code of practice into force by regulations made by statutory instrument.
- (3) 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.
- (3) The code of practice must include –

**After Clause 26 - continued**

- (a) the overarching duty of care of internet service providers and social media platform providers to ensure the safety of a child or young person involved in any activity or interaction for which that service provider is responsible;
  - (b) the obligation to inform the police with immediate effect if notified that content on social media sites contravene existing legislation;
  - (c) the obligation to remove content with immediate effect if notified that posts on social media sites contravene existing legislation;
  - (d) the obligation to have specific terms of use that prohibit cyber-bullying and provide a mechanism for complaints of cyber bullying to be received and for the offending content to be removed; and
  - (e) their responsibility to work with education professionals, parents and charities to give young people the skills to use social media safely.
- (4) Commercial social media platform providers must comply with the code of practice, once it is in force.
- (5) The Secretary of State may from time to time revise and re-publish the code of practice.
- (6) The Secretary of State may bring into force a revised and re-published code of practice by regulations made by statutory instrument.
- (7) In this section –
- “commercial social media platform provider” means a person who operates on a commercial basis an internet site on which people can interact;
  - “cyber-bullying” means material that has the effect of seriously threatening, intimidating, harassing or humiliating children and young people.”

**Clause 27**

## LORD ASHTON OF HYDE

- 25YS** Page 28, line 19, at end insert –  
 ““extreme pornographic material” has the meaning given in section (Meaning of “extreme pornographic material”);”
- 25YT** Page 28, line 22, at end insert –  
 ““pornographic material” has the meaning given in section 16 ;”
- 25YU** 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.”
- 25YV** Page 28, line 23, at end insert –  
 “( ) Nothing in this Part affects any prohibition or restriction in relation to pornographic material or extreme pornographic material, or powers in relation to such material, under another enactment or a rule of law.”

**After Clause 27**

BARONESS JONES OF WHITCHURCH  
LORD STEVENSON OF BALMACARA

**25YW★** Insert the following new Clause—

**“Report on this Part**

- (1) Within 18 months, but not before 12 months, of the coming into force of this Part the Secretary of State must produce a report on the impact and effectiveness of the regulatory framework provided for in this Part.
- (2) Before publishing this report, the Secretary of State must consult on the definitions used within this Part.
- (3) The report must be laid before each House of Parliament.”

**Clause 31**

LORD CLEMENT-JONES  
BARONESS HAMWEE

**25YX★** Page 30, line 22, after “person” insert “to the extent the disclosure is necessary and proportionate”

LORD ASHTON OF HYDE

**25YY** Page 30, line 23, leave out “a specified objective” and insert “an objective which is a specified objective in relation to each of those persons”

**25YYA** Page 30, line 24, leave out “Chapter” and insert “section”

**25YYB** Page 30, line 25, leave out “regulations made by the appointed national authority” and insert “Schedule (*Public service delivery: specified persons for the purposes of section 31*)”

**25YYC** Page 30, line 26, leave out subsection (3) and insert—

- “(3) The appropriate national authority may by regulations amend Schedule (*Public service delivery: specified persons for the purposes of section 31*) so as to add, remove or modify an entry relating to a person or description of person.
- (3A) Regulations under subsection (3) may add an entry relating to a person or a description of person to Schedule (*Public service delivery: specified persons for the purposes of section 31*) only if—
  - (a) the person is a public authority or (as the case may be) each person of that description is a public authority, or
  - (b) the person provides services to a public authority or (as the case may be) each person of that description provides services to a public authority.”

LORD CLEMENT-JONES  
BARONESS HAMWEE

*As an amendment to Amendment 25YYC*

**25YYD★** In subsection (3), leave out “, remove or modify” and insert “or remove”

**Clause 31 - continued**

LORD ASHTON OF HYDE

- 25YYE** Page 30, line 33, leave out “(2)” and insert “(3)”
- 25YYF** Page 30, line 38, leave out from “which” to “, whether” in line 39 and insert “remove a person from Schedule (*Public service delivery: specified persons for the purposes of section 31*)”

LORD CLEMENT-JONES  
BARONESS HAMWEE

- 25YYG★** Page 30, line 40, leave out “had regard to” and insert “complied with”

LORD ASHTON OF HYDE

- 25YYH** Page 31, line 1, after first “objective” insert “, in relation to a specified person,”
- 25YYJ** Page 31, line 1, after “specified” insert “in relation to that specified person”

LORD WHITTY

- 26** Page 31, line 9, at end insert –  
“( ) the facilitation of improvements in health conditions which could be exacerbated by living in a cold home.”

LORD CLEMENT-JONES  
BARONESS HAMWEE

- 26A★** Page 31, line 15, leave out paragraph (b)

LORD ASHTON OF HYDE

- 26B** Page 31, line 16, at end insert –  
“( ) The third condition is that the objective has as its purpose the supporting of –  
(a) the delivery of a specified person’s functions, or  
(b) the administration, monitoring or enforcement of a specified person’s functions.”

**Clause 32**

LORD WHITTY

- 27** Page 31, line 22, at end insert –  
“( ) a licensed electricity distributor, or  
( ) a licensed gas network distributor.”
- 28** Page 31, line 40, 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 gas licensed network operator.”

**Clause 32 - continued**

LORD ASHTON OF HYDE

- 28AA** Page 31, line 40, at end insert –  
 “() In this section and section 33 “specified person” means a person specified, or of a description specified, in Schedule (*Public service delivery: specified persons for the purposes of sections 32 and 33*).”
- 28AB** Page 31, line 41, at end insert –  
 “(za) amend Schedule (*Public service delivery: specified persons for the purposes of sections 32 and 33*) so as to add, remove or modify an entry relating to a person or description of person;”
- 28AC** Page 31, line 44, at end insert “so as to add, modify or remove a reference to a fuel poverty measure”
- 28AD** Page 31, line 44, at end insert –  
 “() Regulations under subsection (4)(za) may add an entry relating to a person or a description of person to Schedule (*Public service delivery: specified persons for the purposes of sections 32 and 33*) only if –  
 (a) the person is a public authority or (as the case may be) each person of that description is a public authority, or  
 (b) the person provides services to a public authority or (as the case may be) each person of that description provides services to a public authority.”
- 28AE** Page 31, line 44, at end insert –  
 “() Regulations under subsection (4)(a) may add a person or a description of person to subsection (1) only if the person or (as the case may be) each person of that description –  
 (a) provides assistance of a kind mentioned in subsection (2) to people living in fuel poverty,  
 (b) monitors or enforces the provision of such assistance to such people,  
 (c) administers a fuel poverty measure, or  
 (d) provides services to a person within paragraph (a), (b) or (c).”
- 28AF** Page 32, line 1, leave out “(4)(a)” and insert “(4)(za) or (a)”
- 28AG** Page 32, line 6, after “from” insert “Schedule (*Public service delivery: specified persons for the purposes of sections 32 and 33*) or”
- 28AH** Page 32, line 17, at end insert –  
 ““fuel poverty measure” means –  
 (a) a scheme, arrangement or set of arrangements, or  
 (b) a function or set of functions,

**Clause 32 - continued**

which has as its purpose (or one of its purposes) the provision of assistance of a kind mentioned in subsection (2) to people living in fuel poverty;”

**Clause 34**

## LORD ASHTON OF HYDE

**28AJ** Page 33, line 8, at end insert –

“( ) In this section and section 35 “specified person” means a person specified, or of a description specified, in Schedule (*Public service delivery: specified persons for the purposes of sections 34 and 35*).”

**28AK** Page 33, line 8, at end insert –

“(3A) The appropriate national authority may by regulations –

- (a) amend Schedule (*Public service delivery: specified persons for the purposes of sections 34 and 35*) so as to add, remove or modify an entry relating to a person or description of person;
- (b) amend subsection (1) so as to add or remove a person or description of person to whom information may be disclosed;
- (c) amend subsection (3) so as to add, modify or remove a reference to a water poverty measure.”

**28AL** Page 33, line 8, at end insert –

“( ) Regulations under subsection (3A)(a) may add an entry relating to a person or a description of person to Schedule (*Public service delivery: specified persons for the purposes of sections 34 and 35*) only if –

- (a) the person is a public authority or (as the case may be) each person of that description is a public authority, or
- (b) the person provides services to a public authority or (as the case may be) each person of that description provides services to a public authority.”

**28AM** Page 33, line 8, at end insert –

“( ) Regulations under subsection (3A)(b) may add a person or a description of person to subsection (1) only if the person or (as the case may be) each person of that description –

- (a) provides assistance of a kind mentioned in subsection (2) to people living in water poverty,
- (b) monitors or enforces the provision of such assistance to such people,
- (c) administers a water poverty measure, or
- (d) provides services to a person within paragraph (a), (b) or (c).”

**Clause 34 - continued****28AN** Page 33, line 8, at end insert—

- “( ) In determining whether to make regulations under subsection (3A)(a) or (b) in relation to a person or description of person the appropriate national authority must have regard, in particular, to—
- (a) the systems and procedures for the secure handling of information by that person or persons of that description, and
  - (b) in the case of regulations which remove a person from Schedule (*Public service delivery: specified persons for the purposes of sections 34 and 35*) or subsection (1), whether that person, or any person providing services to that person, has had regard to the code of practice under section 39 as required by that section.”

**28AP** Page 33, line 12, at end insert—

- “( ) In this section “water poverty measure” means—
- (a) a scheme, arrangement or set of arrangements, or
  - (b) a function or set of functions,
- which has as its purpose (or one of its purposes) the provision of assistance of a kind mentioned in subsection (2) to people living in water poverty.”

**Clause 36**

LORD CLEMENT-JONES  
BARONESS HAMWEE

**28AQ★** Page 33, line 35, after first “of” insert “serious”**28AR★** Page 33, line 35, leave out “or the prevention of anti-social behaviour”**28AS★** Page 33, line 44, at end insert—

- “( ) For the purposes of subsection (1) “serious crime” means crime where—
- (a) the offence, or one of the offences, which is or would be constituted by the conduct concerned is an offence for which a person who has reached the age of 18 (or, in relation to Scotland or Northern Ireland, 21) and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of 3 years or more, or
  - (b) the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.”

**28AT★** Page 34, line 1, leave out subsection (3)**28AU★** Page 34, line 11, leave out paragraph (a) and insert—

- “( ) it is personal data as defined by section 1 of the Data Protection Act 1998,
- ( ) it relates to and identifies a particular person who is not living, or

**Clause 36 - continued**

( ) it relates to and identifies a body corporate, but”

- 28AV★** Page 34, line 22, leave out subsection (7) and insert –
- “( ) Nothing in this Chapter permits the breach of any obligation of confidence under the common law.
- ( ) A disclosure under any of sections 31 to 35 does not breach any other restriction on the disclosure of information (however imposed).”

BARONESS FINLAY OF LLANDAFF

- 28AW** Page 34, line 30, at end insert –
- “( ) contravenes the common law duty of medical confidentiality.”

- 28AX** Page 34, line 30, at end insert –
- “( ) In its application to a specified person with functions relating to the provision of health services, section 31 does not authorise the disclosure of identifiable health information held by that person in connection with those functions.”

LORD CLEMENT-JONES  
BARONESS HAMWEE

- 28AY★** Page 34, line 34, at end insert –
- “(9A) Unless the condition in subsection (9B) applies (but only during its continuation) as soon as practicable after the disclosure of information under this Chapter the specified person shall inform the person to whom the information relates of the disclosure.
- (9B) The condition is that providing such information may facilitate the commission of crime or hinder the detection of crime.”

**Clause 37**

LORD CLEMENT-JONES  
BARONESS HAMWEE

- 28BA★** Page 35, line 4, leave out “or the prevention of anti-social behaviour”

- 28BB★** Page 35, line 22, leave out subsection (3)

**Clause 39**

LORD CLEMENT-JONES  
BARONESS HAMWEE

- 28BC★** Page 36, line 20, leave out “code of practice issued” and insert “codes of practice issued under section 51 (codes of practice for guidance as to good practice) and”

- 28BD★** Page 36, line 22, at end insert –
- “( ) The code of practice must in particular provide for –
- (a) privacy impact assessments;

**Clause 39 - continued**

(b) privacy notices.”

BARONESS HAMWEE

**28BE** Page 36, line 23, leave out “have regard to” and insert “comply with”

LORD CLEMENT-JONES  
BARONESS HAMWEE

**28BF★** Page 36, line 34, at end insert –

“( ) persons concerned with human rights and the protection of the privacy of individuals,”

LORD ASHTON OF HYDE

**28BG** Page 36, line 38, at end insert –

“(6A) The relevant Minister may not issue the code of practice unless a draft of the code has been laid before, and approved by a resolution of, each House of Parliament.

(6B) Before reissuing the code the relevant Minister must lay a draft of the code as proposed to be reissued before Parliament.

(6C) The relevant Minister may not reissue the code if, within the 40-day period, either House of Parliament resolves not to approve it.

(6D) In subsection (6C) “the 40 day period” means –

(a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or

(b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.

(6E) For the purposes of subsection (6D) no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.”

**28BH** Page 36, line 42, leave out paragraph (a)

**28BJ** 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 –

(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 39 - continued**

LORD CLEMENT-JONES  
 BARONESS HAMWEE  
*As an amendment to Amendment 28BJ*

**28BK★** In subsection (8), leave out “have regard to” and insert “comply with”

**Clause 40**

LORD ASHTON OF HYDE

**28BL** Page 37, line 14, leave out subsection (3)

LORD CLEMENT-JONES  
 BARONESS HAMWEE

**28BM★** Page 37, line 19, leave out subsection (4)

LORD ASHTON OF HYDE

**28BN** Page 37, line 19, leave out from “of” to first “this” in line 20 and insert “—  
 ( ) regulations under section 31 (3) which amend Schedule (*Public service delivery: specified persons for the purposes of section 31*) so as to add an entry relating to a person or description of person,  
 ( ) regulations under section 32 (4)(za) which amend Schedule (*Public service delivery: specified persons for the purposes of sections 32 and 33*) so as to add an entry relating to a person or description of person, or  
 ( ) regulations under section 34 (3A)(a) which amend Schedule (*Public service delivery: specified persons for the purposes of sections 34 and 35*) so as to add an entry relating to a person or description of person,”

**28BP** Page 37, line 20, leave out “provision amending this Chapter so as” and insert “power”

**28BQ** Page 37, line 39, leave out “or 32(4)(b)” and insert “, 32(4)(b) or 34(3A)(c)”

**28BR** Page 38, line 7, leave out “31(2) or 32(4)(a)” and insert “ 31(3), 32(4)(za) or (a) or 34(3A)(a) or (b)”

**Clause 41**

LORD ASHTON OF HYDE

**28BS** Page 38, leave out line 32

**28BT** Page 38, line 34, leave out “31(2) which specify” and insert “ 31(3) or 32(4)(za) which add, modify or remove an entry relating to”

**28BU** Page 39, line 1, leave out “31(2) which specify” and insert “ 31(3), 32(4)(za) or 34(3A)(a) which add, modify or remove an entry relating to”

**Clause 41 - continued**

- 28BV** Page 39, line 3, after “32(4)(a)” insert “or 34(3A)(b)”
- 28BW** Page 39, line 5, leave out “or 32(4)(b)” and insert “, 32(4)(b) or 34(3A)(c)”
- 28BX** Page 39, line 7, leave out “relates to a matter” and insert “could be specified by provision falling”
- 28BY** Page 39, line 16, leave out “31(2) which specify” and insert “ 31(3) which add, modify or remove an entry relating to”
- 28CA** Page 39, line 35, at end insert—
- “( ) The power of the Secretary of State in section 69(2) of the Wales Act 2017 to amend an enactment contained in primary legislation in consequence of any provision of that Act includes power to amend this Chapter, and section 97 so far as relating to this Chapter, in consequence of section 48 (water and sewerage) of that Act.”

**Clause 42**

LORD CLEMENT-JONES  
BARONESS HAMWEE

- 28CB★** Page 40, line 7, at end insert “and the disclosure is proportionate”

LORD ASHTON OF HYDE

- 28CC** Page 41, leave out lines 37 to 39 and insert—
- “(6) The Registrar General may not issue the code of practice unless a draft of the code has been laid before, and approved by a resolution of, each House of Parliament.
- (7) Before reissuing the code the Registrar General must lay a draft of the code as proposed to be reissued before Parliament.
- (8) The Registrar General may not reissue the code if, within the 40-day period, either House of Parliament resolves not to approve it.
- (9) In subsection (8) “the 40 day period” means—
- (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or
- (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.
- (10) For the purposes of subsection (9) no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.”

**Clause 42 - continued**

**28CD** 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.””

LORD CLEMENT-JONES  
BARONESS HAMWEE  
*As an amendment to Amendment 28CD*

**28CE★** In subsection (7), leave out “have regard to” and insert “comply with”

**After Clause 42**

LORD CLEMENT-JONES  
BARONESS HAMWEE

**28CF★** Insert the following new Clause –

**“Duty to review**

- (1) As soon as is reasonably practicable after the end of three years beginning with the day on which sections 19AA, 19AB and 19AC of the Registration Service Act 1953 come into force, the Secretary of State must review their operation for the purposes of deciding whether they should be amended or repealed.
- (2) Before carrying out the review the Secretary of State must publish the criteria by reference to which the determination in subsection (1) will be made.
- (3) The review must include –
  - (a) the use to which the powers contained in section 19AA have been put;
  - (b) whether alternative powers could have been used (including the necessity for, and proportionality of, the use of the powers);
  - (c) security considerations;
  - (d) public attitudes to the use of the powers.
- (4) In carrying out the review the Secretary of State must carry out a public consultation.
- (5) Once the review is completed the Secretary of State must –
  - (a) publish a report on its outcome, and
  - (b) lay a copy of this report before each House of Parliament.

**After Clause 42 - continued**

- (6) If, as a result of the review, the Secretary of State decides that sections 19AA, 19AB, 19AC should be amended or repealed, he may by regulations contained in a statutory instrument amend or repeal them (as the case may be).
- (7) A statutory instrument containing regulations made under subsection (6) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

**Clause 44**

LORD CLEMENT-JONES

BARONESS HAMWEE

**28CG★** Page 42, line 29, after “person” insert “to the extent the disclosure is necessary and proportionate”

LORD ASHTON OF HYDE

**28CH** Page 42, line 30, leave out “specified person” and insert “public authority”

**28CJ** Page 42, line 32, after “section” insert “and Schedule (*Specified persons for purposes of the debt provisions*)”

**28CK** Page 42, line 32, leave out “specified person” and insert “public authority”

**28CL** Page 42, line 34, leave out “specified person” and insert “public authority”

**28CM** Page 42, line 38, leave out “The reference in subsection (1) to” and insert “For the purposes of this section and Schedule (*Specified persons for purposes of the debt provisions*)”

**28CN** Page 42, line 39, leave out “specified person” and insert “public authority”

**28CP** Page 43, line 4, leave out “regulations made by the appropriate national authority” and insert “Schedule (*Specified persons for purposes of the debt provisions*)”

**28CQ** Page 43, line 5, leave out subsection (5) and insert –

“(5) The appropriate national authority may by regulations amend Schedule (*Specified persons for purposes of the debt provisions*) so as to add, remove or modify an entry relating to a person or description of person.

(5A) Regulations under subsection (5) may add an entry relating to a person or a description of person to Schedule (*Specified persons for purposes of the debt provisions*) only if the following conditions are satisfied.

(5B) The first condition is that –

(a) the person is a public authority or (as the case may be) each person of that description is a public authority, or

**Clause 44 - continued**

- (b) the person provides services to a public authority or (as the case may be) each person of that description provides services to a public authority.
- (5C) The second condition is that the person or (as the case may be) a person of that description (“P” in either case) –
  - (a) requires information from a public authority or a person providing services to a public authority to improve P’s ability to identify, manage or recover debt owed to a public authority or to the Crown,
  - (b) has information which, if shared with a public authority or a person providing services to a public authority, has the potential to improve that authority’s or that person’s ability to identify, manage or recover such debt, or
  - (c) has functions relating to the management or recovery of such debt the exercise of which may be improved by the disclosure of information by or to P.”

**28CR** Page 43, line 12, leave out “(4)” and insert “(5)”

**28CS** Page 43, line 17, leave out from “which” to “whether” in line 18 and insert “remove a person from Schedule (*Specified persons for purposes of the debt provisions*),”

**28CT** Page 43, line 21, leave out “(4)” and insert “(5)”

**28CU** Page 43, line 26, leave out “(4)” and insert “(5)”

**Clause 48**

LORD CLEMENT-JONES

BARONESS HAMWEE

**28CV★** Page 46, line 20, leave out “code of practice issued” and insert “codes of practice issued under section 51 (codes of practice for guidance as to good practice) and”

**28CW★** Page 46, line 22, at end insert –

- “( ) The code of practice must in particular provide for –
  - (a) privacy impact assessments;
  - (b) privacy notices.”

BARONESS HAMWEE

**28CX** Page 46, line 23, leave out “have regard to” and insert “comply with”

LORD CLEMENT-JONES

BARONESS HAMWEE

**28CY★** Page 46, line 26, after second “time” insert “, by regulations, ”

**Clause 48 - continued**

**28DA★** Page 46, line 34, at end insert –  
 “( ) persons concerned with human rights and the protection of the privacy of individuals,”

**28DB★** Page 46, line 34, at end insert –  
 “( ) persons concerned with human rights and the protection of the privacy of individuals,”

## LORD ASHTON OF HYDE

**28DC** Page 46, line 38, at end insert –  
 “(6A) The relevant Minister may not issue the code of practice unless a draft of the code has been laid before, and approved by a resolution of, each House of Parliament.  
 (6B) Before reissuing the code the relevant Minister must lay a draft of the code as proposed to be reissued before Parliament.  
 (6C) The relevant Minister may not reissue the code if, within the 40-day period, either House of Parliament resolves not to approve it.  
 (6D) In subsection (6C) “the 40 day period” means –  
 (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or  
 (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.  
 (6E) For the purposes of subsection (6D) no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.”

**28DD** Page 46, line 42, leave out paragraph (a)

**28DE** 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 49**

LORD ASHTON OF HYDE

- 28DF** Page 47, line 25, at end insert –  
“() The power in subsection (5) to amend this Chapter –  
(a) may be exercised for the purposes only of improving the effectiveness of the operation of the power in section 44 (1), and  
(b) may not be used to remove any of the safeguards relating to the use or disclosure of information in section 45, 46 or 47 .”
- 28DG** Page 47, line 30, leave out “44(4)” and insert “ 44(5)”
- 28DH** Page 47, line 42, leave out “44(4)” and insert “ 44(5)”
- 28DJ** Page 48, line 10, leave out “44(4)” and insert “ 44(5)”

**Clause 50**

LORD ASHTON OF HYDE

- 28DK** Page 48, line 34, leave out subsection (3)
- 28DL** Page 48, line 39, leave out “44(4) which specify” and insert “ 44(5) which amend Schedule (*Specified persons for purposes of the debt provisions*) so as to add an entry relating to”
- 28DM** Page 48, line 40, leave out “provision amending this Chapter so as” and insert “power”
- 28DN** Page 49, line 1, leave out “44(4)” and insert “ 44(5)”
- 28DP** Page 49, line 3, leave out “44(4)” and insert “ 44(5)”
- 28DQ** Page 49, line 6, leave out “44(4)” and insert “ 44(5)”
- 28DR** Page 49, line 9, leave out “44(4)” and insert “ 44(5)”

**Clause 51**

LORD ASHTON OF HYDE

- 28DS** Page 50, line 14, leave out “44(4) which specify” and insert “ 44(5) which add, modify or remove an entry relating to”
- 28DT** Page 50, line 17, leave out “44(4) which specify” and insert “ 44(5) which add, modify or remove an entry relating to”
- 28DU** Page 50, line 20, leave out “44(4) which specify” and insert “ 44(5) which add, modify or remove an entry relating to”

## Clause 52

LORD CLEMENT-JONES  
BARONESS HAMWEE

**28DV★** Page 50, line 26, after “person” insert “to the extent the disclosure is necessary and proportionate”

LORD ASHTON OF HYDE

**28DW** Page 50, line 28, after “section” insert “and in Schedule (*Specified persons for purposes of the fraud provisions*)”

**28DX** Page 50, line 37, leave out “The reference in subsection (1) to” insert “For the purposes of this section and Schedule (*Specified persons for purposes of the fraud provisions*)”

**28DY** Page 51, line 2, leave out from “in” to end of line and insert “Schedule (*Specified persons for purposes of the fraud provisions*)”

**28EA** Page 51, line 3, leave out subsection (6) and insert –

“(6) The appropriate national authority may by regulations amend Schedule (*Specified persons for purposes of the fraud provisions*) so as to add, remove or modify an entry relating to a person or description of person.

(6A) Regulations under subsection (6) may add an entry relating to a person or a description of person to Schedule (*Specified persons for purposes of the fraud provisions*) only if the following conditions are satisfied.

(6B) The first condition is that –

- (a) the person is a public authority or (as the case may be) each person of that description is a public authority, or
- (b) the person provides services to a public authority or (as the case may be) each person of that description provides services to a public authority.

(6C) The second condition is that the person or (as the case may be) a person of that description (“P” in either case) –

- (a) requires information from a public authority or a person providing services to a public authority to improve P’s ability to identify or reduce the risk of fraud against P or a public authority to which P provides services,
- (b) has information which, if shared with a public authority or a person providing services to a public authority, has the potential to improve that authority’s or that person’s ability to identify or reduce the risk of fraud against that authority, or
- (c) has functions of taking action in connection with fraud against a public authority, the exercise of which may be improved by the disclosure of information by or to P.”

**28EB** Page 51, line 10, leave out “(5)” and insert “(6)”

**Clause 52 - continued**

- 28EC** Page 51, line 15, leave out from “which” to “, whether” in line 16 and insert “remove a person from Schedule (*Specified persons for purposes of the fraud provisions*)”
- 28ED** Page 51, line 19, leave out “(5)” and insert “(6)”
- 28EE** Page 51, line 24, leave out “(5)” and insert “(6)”

**Clause 56**

LORD CLEMENT-JONES  
BARONESS HAMWEE

- 28EF★** Page 54, line 31, leave out “code of practice issued” and insert “codes of practice issued under section 51 (*codes of practice for guidance as to good practice*) and”
- 2EG★** Page 54, line 33, at end insert –  
 “( ) The code of practice must in particular provide for –  
 (a) privacy impact assessments;  
 (b) privacy notices.”

BARONESS HAMWEE

- 28EH** Page 54, line 34, leave out “have regard to” and insert “comply with”

LORD CLEMENT-JONES  
BARONESS HAMWEE

- 28EJ★** Page 55, line 3, at end insert –  
 “( ) persons concerned with human rights and the protection of the privacy of individuals,”

LORD ASHTON OF HYDE

- 28EK** Page 55, line 7, at end insert –  
 “(6A) The relevant Minister may not issue the code of practice unless a draft of the code has been laid before, and approved by a resolution of, each House of Parliament.  
 (6B) Before reissuing the code the relevant Minister must lay a draft of the code as proposed to be reissued before Parliament.  
 (6C) The relevant Minister may not reissue the code if, within the 40-day period, either House of Parliament resolves not to approve it.  
 (6D) In subsection (6C) “the 40 day period” means –  
 (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or  
 (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.”

**Clause 56 - continued**

(6E) For the purposes of subsection (6D) no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.”

**28EL** Page 55, line 11, leave out paragraph (a)

**28EM** 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 57**

LORD ASHTON OF HYDE

**28EN** Page 55, line 37, at end insert –

“( ) The power in subsection (5) to amend this Chapter –

- (a) may be exercised for the purposes only of improving the effectiveness of the operation of the power in section 52 (1), and
- (b) may not be used to remove any of the safeguards relating to the use or disclosure of information in section 53 , 54 or 55 .”

**28EP** Page 55, line 42, leave out “52(5)” and insert “ 52(6)”

**28EQ** Page 56, line 10, leave out “52(5)” and insert “ 52(6)”

**28ER** Page 56, line 22, leave out “52(5)” and insert “ 52(6)”

**Clause 58**

LORD ASHTON OF HYDE

**28ES** Page 56, line 46, leave out subsection (3)

**28ET** Page 57, line 5, leave out “52(5) which specify” and insert “ 52(6) which amend Schedule (*Specified persons for purposes of the fraud provisions*) so as add an entry relating to”

**28EU** Page 57, line 6, leave out “provision amending this Chapter so as” and insert “power”

**Clause 58 - continued**

- 28EV** Page 57, line 13, leave out “52(5)” and insert “ 52(6)”
- 28EW** Page 57, line 15, leave out “52(5)” and insert “ 52(6)”
- 28EX** Page 57, line 18, leave out “52(5)” and insert “ 52(6)”
- 28EY** Page 57, line 21, leave out “52(5)” and insert “ 52(6)”

**Clause 59**

LORD ASHTON OF HYDE

- 28FA** Page 58, line 19, leave out “52(5) which specify” and insert “52(6) which add, modify or remove an entry relating to”
- 28FB** Page 58, line 22, leave out “52(5) which specify” and insert “52(6) which add, modify or remove an entry relating to”
- 28FC** Page 58, line 25, leave out “52(5) which specify” and insert “52(6) which add, modify or remove an entry relating to”

**Clause 60**LORD CLEMENT-JONES  
BARONESS HAMWEE

- 28FD★** Page 58, line 31, after “person” insert “to the extent the disclosure is necessary and proportionate”

LORD ASHTON OF HYDE

- 28FE** Page 59, line 6, at beginning insert “subject to sections 63(5), 64(5) and 65(5)(information disclosed by tax authorities),”
- 28FF** Page 59, line 7, leave out subsection (6)

**Clause 62**

LORD ASHTON OF HYDE

- 28FG** 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

- 28FH** Page 62, line 42, at end insert “, or  
 ( ) by a person to whom the information is disclosed by virtue of subsection (3).”
- 28FJ** 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

- 28FK** Page 63, line 39, at end insert “, or  
 ( ) by a person to whom the information is disclosed by virtue of subsection (3).”
- 28FL** 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

- 28FM** Page 64, line 43, at end insert “, or  
 ( ) by a person to whom the information is disclosed by virtue of subsection (3).”
- 28FN** 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 CLEMENT-JONES  
BARONESS HAMWEE

- 28FP★** Page 65, line 34, leave out “code of practice issued” and insert “codes of practice issued under section 51 (codes of practice for guidance as to good practice) and”
- 28FQ★** Page 65, line 36, at end insert –  
 “( ) The code of practice must in particular provide for –

**Clause 66 - continued**

- (a) privacy impact assessments;
- (b) privacy notices.”

BARONESS HAMWEE

**28FR** Page 65, line 37, leave out “have regard to” and insert “comply with”

LORD CLEMENT-JONES  
BARONESS HAMWEE

**28FS★** Page 66, line 13, at end insert –  
“( ) persons concerned with human rights and the protection of the privacy of individuals,”

LORD ASHTON OF HYDE

**28FT** Page 66, line 17, at end insert –  
“(8A) The Statistics Board may not issue the code of practice unless a draft of the code has been laid before, and approved by a resolution of, each House of Parliament.  
(8B) Before reissuing the code the Statistics Board must lay a draft of the code as proposed to be reissued before Parliament.  
(8C) The Statistics Board may not reissue the code if, within the 40-day period, either House of Parliament resolves not to approve it.  
(8D) In subsection (8C) “the 40 day period” means –  
    (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or  
    (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.  
(8E) For the purposes of subsection (8D) no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.”

**28FU** Page 66, line 20, leave out paragraph (a)

**28FV** 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.

**Clause 66 - continued**

- (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.”

**After Clause 70**

## LORD ASHTON OF HYDE

**28FW** Insert the following new Clause—

**“Disclosure of non-identifying information by the Welsh Revenue Authority**

- (1) A relevant official of the Welsh Revenue Authority may disclose relevant information to any person if—
- (a) the information is non-identifying information, and
  - (b) the official thinks that the disclosure would be in the public interest.
- (2) Information is non-identifying information for the purposes of this section if—
- (a) it is not, and has never been, identifying information, or
  - (b) it has been created by combining identifying information, but is not itself identifying information.
- (3) Information is identifying information for the purposes of this section if it relates to a person whose identity—
- (a) is specified in the information,
  - (b) can be deduced from the information, or
  - (c) can be deduced from the information taken together with any other information.
- (4) In this section—
- (a) “relevant official of the Welsh Revenue Authority” means a person within any of paragraphs (a) to (d) of section 17(2) of the Tax Collection and Management (Wales) Act 2016, and
  - (b) “relevant information” means information which—
    - (i) is held by the Welsh Revenue Authority in connection with its functions, or
    - (ii) is held by a person to whom any of the functions of the Welsh Revenue Authority have been delegated in connection with those functions.”

**28FX** Insert the following new Clause—

**“Disclosure of non-identifying information by Revenue Scotland**

- (1) A relevant official of Revenue Scotland may disclose to any person information held by a relevant person in connection with a relevant function if—
- (a) the information is non-identifying information, and
  - (b) the official thinks that the disclosure would be in the public interest.
- (2) Information is non-identifying information for the purposes of this section if—
- (a) it is not, and has never been, identifying information, or
  - (b) it has been created by combining identifying information, but is not itself identifying information.

**After Clause 70 - continued**

- (3) Information is identifying information for the purposes of this section if it relates to a person whose identity –
  - (a) is specified in the information,
  - (b) can be deduced from the information, or
  - (c) can be deduced from the information taken together with any other information.
- (4) In this section –
  - (a) “relevant official of Revenue Scotland” means a relevant official as defined by section 15(2) of the Revenue Scotland and Tax Powers Act 2014,
  - (b) “relevant person” has the meaning given by section 13(2) of that Act, and
  - (c) “relevant function” means a function mentioned in section 13(3)(a), (b)(i) or (c)(i) of that Act.”

LORD HUNT OF WIRRAL  
LORD ASHTON OF HYDE

**28FY** 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;

**After Clause 70 - continued**

“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

**28GA** 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 –

(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.”

LORD CLEMENT-JONES

BARONESS HAMWEE

*As an amendment to Amendment 28GA***28GB★** In subsection (4A), leave out “have regard to” and insert “comply with”**Clause 72**

LORD ASHTON OF HYDE

**28GC** 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;

**Clause 72 - continued**

- (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.”

LORD CLEMENT-JONES  
BARONESS HAMWEE  
*As an amendment to Amendment GC*

**28GD★** In subsection (7A), leave out “have regard to” and insert “comply with”

**Clause 73**

LORD ASHTON OF HYDE

**28GE** Page 76, line 12, at end insert –

- “(9A) The Board may not publish the original statement under this section unless a draft of the statement has been laid before, and approved by a resolution of, each House of Parliament.
- (9B) Before publishing a revised statement under this section the Board must lay a draft of the statement as proposed to be published before Parliament.
- (9C) The Board may not publish the revised statement if, within the 40-day period, either House of Parliament resolves not to approve it.
- (9D) In subsection (9C) “the 40 day period” means –
- (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or
  - (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.
- (9E) For the purposes of subsection (9D) no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.”

**28GF** Page 76, leave out line 15

**28GG** 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.”

LORD CLEMENT-JONES  
BARONESS HAMWEE  
*As an amendment to Amendment 28GG*

- 28GH★** In subsection (11), leave out “have regard to” and insert “comply with”

LORD ASHTON OF HYDE

- 28GJ** Page 77, line 26, at end insert –

- “(5A) The Board may not publish the original code of practice under this section unless a draft of the code has been laid before, and approved by a resolution of, each House of Parliament.
- (5B) Before publishing a revised code of practice under this section the Board must lay a draft of the code as proposed to be published before Parliament.
- (5C) The Board may not publish the revised code of practice if, within the 40-day period, either House of Parliament resolves not to approve it.
- (5D) In subsection (5C) “the 40 day period” means –
- (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or
  - (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.
- (5E) For the purposes of subsection (5D) no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.”

- 28GK** Page 77, leave out line 29

**Clause 74**

LORD ASHTON OF HYDE

- 28GL** 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.

**Clause 74 - continued**

- (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.”

LORD CLEMENT-JONES  
BARONESS HAMWEE

*As an amendment to Amendment 28GL*

- 28GM★** In subsection (8A), leave out “have regard to” and insert “comply with”  
**29** [Withdrawn]

**Clause 80**

LORD FOSTER OF BATH  
LORD CLEMENT-JONES

- 29A★** Page 84, line 3, at end insert “and taking due account of the merits of the case”.  
**30** [Withdrawn]

**After Clause 81**

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

- 31** Insert the following new Clause—

**“The independence and funding of the BBC**

- (1) The Communications Act 2003 is amended as follows.  
(2) After section 198ZA (inserted by section 81 of this Act) insert—

**“198ZB 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) 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.  
(4) 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.””

- 32** [Withdrawn]

**After Clause 81 - continued**

LORD BEST  
 LORD INGLEWOOD  
 LORD STEVENSON OF BALMACARA  
 BARONESS BONHAM-CARTER OF YARNBURY

**32A** Insert the following new Clause—

**“BBC Licence Fee Commission**

- (1) The Secretary of State must, by regulations made by statutory instrument, set up an independent body (“the BBC Licence Fee Commission”).
- (2) It is to 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 for each successive settlement thereafter.”

LORD BEST  
 LORD STEVENSON OF BALMACARA  
 BARONESS BONHAM-CARTER OF YARNBURY  
 LORD INGLEWOOD

**32B** Insert the following new Clause—

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

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

**32C** Insert the following new Clause—

**“Duty of the Secretary of State in determining funding settlement**

- (1) The Secretary of State is to determine the final settlement for BBC funding for the period from 1 April 2022.
- (2) In determining the final settlement, the Secretary of State must 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 must publish the reasons for the rejection.
- (3) In determining the final settlement, the Secretary of State must 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 recommendations before Parliament*); and
  - (c) the need for effective fulfilment of the BBC’s mission and purposes under the Royal Charter.”

**33** [*Withdrawn*]

### Clause 85

#### LORD GORDON OF STRATHBLANE

- 33ZA** Page 89, line 4, after “impose” insert “proportionate”
- 33ZB** Page 89, line 6, after “are” insert “progressively made more”
- 33ZC** Page 89, line 14, at end insert –
- “(2A) In designing and imposing requirements on providers of on-demand programmes, the Secretary of State shall have regard to proportionality of the cost of such requirements for a service or platform in the context of the length of time that a service or platform has been offered to the public as well as the scale of use and revenue of that service or platform.”

#### LORD ASHTON OF HYDE

- 33ZD** Page 89, leave out lines 15 to 19 and insert –
- “(3) The steps set out in subsections (4) to (6) must be taken before regulations are made under this section.
- (4) The Secretary of State must ask the appropriate regulatory authority to consult such persons as appear to the authority likely to be affected by regulations under this section, including –
- (a) providers of on-demand programme services, and
- (b) representatives of people with disabilities affecting their sight or hearing or both.
- (5) The appropriate regulatory authority must inform the Secretary of State of –
- (a) the outcome of the consultation, and
- (b) any other matters that they think should be taken into account by the Secretary of State for the purposes of the regulations.
- (6) Where OFCOM are not the appropriate regulatory authority, the Secretary of State must consult OFCOM.
- (7) 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 GORDON OF STRATHBLANE

- 33ZE** Page 90, line 26, at end insert –
- “(1A) Before drawing up a code under subsection (1) or reviewing or revising it in pursuance of that subsection, the appropriate regulatory authority must consult –
- (a) such persons appearing to them to represent the interests of persons referred to in paragraph 303(a)(i) as the authority thinks fit, and
- (b) such persons providing on-demand programme services as the authority thinks fit.”

**Clause 85 - continued**

LORD ASHTON OF HYDE

**33ZF** Page 90, line 42, at end insert –

- “( ) In section 402(2)(a) (procedure for statutory instruments) after “411” insert “or regulations under section 368BC”.”

**After Clause 86**

LORD WOOD OF ANFIELD

LORD STEVENSON OF BALMACARA

BARONESS BONHAM-CARTER OF YARNBURY

VISCOUNT COLVILLE OF CULROSS

**33ZG** 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 section 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 section 232(6) before “electronic” insert “linear”.
- (5) In section 232(6)(b) after “for” insert “finding, selecting or”.
- (6) After section 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.

**After Clause 86 - continued**

- (10) Before making an order under subsection 9 the Secretary of State must consult OFCOM.”
- (7) In section 310(1) for “from time to time” substitute “on 1 December 2017 and at intervals of no more than three years thereafter”.
- (8) In section 310(2) omit “such degree of” and “as OFCOM consider appropriate”.
- (9) In section 310(4)(a) after “BBC” insert “, including on-demand programme services,”.
- (10) After section 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 subsection (4)(i) if it —
- (a) is provided by any of the following—
- (i) a person licensed under Part 1 of the 1990 Act to provide a Channel 3 service;
- (ii) the Channel 4 Corporation;
- (iii) a person licensed under Part 1 of the 1990 Act to provide Channel 5;
- (iv) the Welsh Authority; and
- (b) provides access to programmes broadcast on a licensed public service channel.”
- (11) In section 310(5)(a) after first “service” insert “, including on-demand programme services,”.
- (12) After section 310(5) insert—
- “(5A) In making any order under subsection (5) the Secretary of State must have regard to 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 section 310(7)(a) insert—
- “(b) if the service is a public service channel dedicated to children, persons under the age of 16;”.
- (14) For section 310(8) substitute—
- “(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 section 311(2) for “310” substitute “232(5A)”.

**After Clause 87**

LORD ASHTON OF HYDE

33ZH Insert the following new Clause—

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

**After Clause 87 - continued**

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

33ZJ

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.
- (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.

**Before Clause 88 - continued**

- (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 –
  - (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 –

**Before Clause 88 - continued**

- (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.
  - (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;

**Before Clause 88 - continued**

“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 –
 

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

**After Clause 90**

BARONESS BENJAMIN  
 BARONESS BONHAM-CARTER OF YARNBURY  
 LORD COLLINS OF HIGHBURY

**33ZK** 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 includes the conditions that OFCOM consider appropriate for securing –

**After Clause 90 - continued**

- (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.
  - (d) that the proportion of programmes for children and young people made outside the M25 area is in accordance with the proportion secured by OFCOM in the holder's Broadcasting Act licence.
- (2) The regulatory regime must also include conditions that OFCOM consider appropriate for securing that, in each year –
- (a) the investment allocated to the commissioning of original programmes for children included in the service, and
  - (b) the investment allocated to the commissioning of original programmes for young people so included,
- constitute no less than what appears to OFCOM to be an appropriate proportion of the overall investment allocated to the commissioning of all the original programmes included in the channel.
- (3) Before determining for the purposes of this section the proportionate investment to be allocated to the commissioning of original programmes for children and young people, OFCOM must –
- (a) consult the provider of the channel, or, as the case may be, the person who is proposing to provide it, and
  - (b) take into account any representations made in relation to the channel's public service remit and the channel's previous statements of programme policy.
- (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).”

**After Clause 91**

LORD ASHTON OF HYDE  
LORD STEVENSON OF BALMACARA

**33ZL** 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

**After Clause 91 - continued**

- (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.
- (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

**33ZM**

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 –

**After Clause 92 - continued**

- (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—
- (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.”

LORD CLEMENT-JONES  
BARONESS HAMWEE

*As an amendment to Amendment 33ZM*

**33ZN★** In subsection (2), leave out from “charge” to end and insert “for a service provided to the data controller by the Information Commissioner.”

*As an amendment to Amendment 33ZM*

**33ZP★** In paragraph (4)(a), at end insert “but in no case may a charge exceed the cost of the service,”

## After Clause 92 - continued

LORD ASHTON OF HYDE

33ZQ★ 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 or by virtue of the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426),
    - (iii) under the General Data Protection Regulation,
    - (iv) under regulations which implement the General Data Protection Regulation or the Criminal Data Directive,
    - (v) by virtue of section (*Regulations about charges payable to the Information Commissioner*), and
    - (vi) 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;

“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).

**After Clause 92 - continued**

- (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.”

LORD CLEMENT-JONES  
BARONESS HAMWEE

*As an amendment to Amendment 33ZQ*

**33ZR★** In subsection (1), after “consult” insert “(a)–  
”

*As an amendment to Amendment 33ZQ*

**33ZS★** After subsection (1) insert–  
 “(b) representatives of persons likely to be affected by the regulations, and  
 (c) such other persons as the Secretary of State considers appropriate.”

*As an amendment to Amendment 33ZQ*

**33ZT★** In subsection (2), after “*Commissioner*)(1),” insert “subject to subsection (4)(a) of that section,”

LORD ASHTON OF HYDE

**33ZU** 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.

**After Clause 92 - continued**

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

LORD CLEMENT-JONES  
BARONESS HAMWEE

*As an amendment to Amendment 33ZU*

- 33ZV★** In subsection (1), leave out from “(5)” to end of subsection (2) and insert “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 ASHTON OF HYDE

- 33ZW** 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).

**After Clause 92 - continued**

- (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).”

**Before Schedule 4**

## LORD ASHTON OF HYDE

**33ZX** Insert the following new Schedule –

“PUBLIC SERVICE DELIVERY: SPECIFIED PERSONS FOR THE PURPOSES OF SECTION 31

- 1 The Secretary of State for the Home Department.
- 2 The Secretary of State for Defence.
- 3 The Lord Chancellor.
- 4 The Secretary of State for Justice.
- 5 The Secretary of State for Education.
- 6 The Secretary of State for Business, Energy and Industrial Strategy.
- 7 The Secretary of State for Work and Pensions.
- 8 The Secretary of State for Communities and Local Government.
- 9 The Secretary of State for Culture, Media and Sport.
- 10 Her Majesty’s Revenue and Customs.
- 11 A county council in England.
- 12 A district council in England.
- 13 A London borough council.
- 14 A combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.
- 15 The Common Council of the City of London in its capacity as a local authority.
- 16 The Council of the Isles of Scilly.
- 17 The Greater London Authority.
- 18 A metropolitan county fire and rescue authority.
- 19 The London Fire Commissioner.

**Before Schedule 4 - continued**

- 20 A fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.
- 21 A fire and rescue authority created by a scheme under section 4A of the Fire and Rescue Services Act 2004.
- 22 A chief officer of police for a police area in England and Wales.
- 23 The proprietor of a school within the meaning of the Education Act 1996.
- 24 The proprietor of an Academy within the meaning of that Act.
- 25 The responsible person in relation to an educational institution as defined by section 72(5) of the Education and Skills Act 2008 (other than a person within paragraph 23 or 24).
- 26 The Gas and Electricity Markets Authority.
- 27 The Chief Land Registrar.
- 28 A person providing services in connection with a specified objective (within the meaning of section 31) to a specified person who is a public authority.”

**33ZY** Insert the following new Schedule –

“PUBLIC SERVICE DELIVERY: SPECIFIED PERSONS FOR THE PURPOSES OF SECTIONS 32 AND 33

- 1 The Secretary of State for Business, Energy and Industrial Strategy.
- 2 The Secretary of State for Work and Pensions.
- 3 The Secretary of State for Communities and Local Government.
- 4 Her Majesty’s Revenue and Customs.
- 5 A county council in England.
- 6 A district council in England.
- 7 A London borough council.
- 8 A combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.
- 9 The Common Council of the City of London in its capacity as a local authority.
- 10 The Council of the Isles of Scilly.
- 11 The Greater London Authority.
- 12 A metropolitan county fire and rescue authority.
- 13 The London Fire Commissioner.
- 14 A fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.
- 15 A fire and rescue authority created by a scheme under section 4A of the Fire and Rescue Services Act 2004.
- 16 The Gas and Electricity Markets Authority.
- 17 The Chief Land Registrar.

**Before Schedule 4 - continued**

- 18 A person providing services in connection with a fuel poverty measure (within the meaning of section 32) to a specified person who is a public authority.”

**33ZYA** Insert the following new Schedule—

“PUBLIC SERVICE DELIVERY: SPECIFIED PERSONS FOR THE PURPOSES OF SECTIONS 34 AND 35

- 1 The Secretary of State for Work and Pensions.
- 2 The Secretary of State for Communities and Local Government.
- 3 Her Majesty’s Revenue and Customs.
- 4 A county council in England.
- 5 A district council in England.
- 6 A London borough council.
- 7 A combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.
- 8 The Common Council of the City of London in its capacity as a local authority.
- 9 The Council of the Isles of Scilly.
- 10 The Greater London Authority.
- 11 The Chief Land Registrar.
- 12 A person providing services in connection with a water poverty measure (within the meaning of section 34) to a specified person who is a public authority.”

**33ZYB** Insert the following new Schedule—

“SPECIFIED PERSONS FOR THE PURPOSES OF THE DEBT PROVISIONS

- 1 The Secretary of State for the Home Department.
- 2 The Lord Chancellor.
- 3 The Secretary of State for Justice.
- 4 The Secretary of State for Education.
- 5 The Secretary of State for Business, Energy and Industrial Strategy.
- 6 The Secretary of State for Work and Pensions.
- 7 The Secretary of State for Transport.
- 8 Her Majesty’s Revenue and Customs.
- 9 The Minister for the Cabinet Office.
- 10 A county council in England.
- 11 A district council in England.
- 12 A London borough council.
- 13 The Common Council of the City of London in its capacity as a local authority.
- 14 The Council of the Isles of Scilly.
- 15 The Greater London Authority.

**Before Schedule 4 - continued**

- 16 The Student Loans Company.
- 17 A person providing services to a specified person who is a public authority in respect of the taking of action in connection with debt owed to a public authority or to the Crown.”

**33ZYC** Insert the following new Schedule—

## “SPECIFIED PERSONS FOR THE PURPOSES OF THE FRAUD PROVISIONS

- 1 The Secretary of State for the Home Department.
- 2 The Secretary of State for Defence.
- 3 The Lord Chancellor.
- 4 The Secretary of State for Justice.
- 5 The Secretary of State for Education.
- 6 The Secretary of State for Business, Energy and Industrial Strategy.
- 7 The Secretary of State for Work and Pensions.
- 8 The Secretary of State for Transport.
- 9 The Secretary of State for Communities and Local Government.
- 10 The Secretary of State for the Environment, Food and Rural Affairs.
- 11 The Secretary of State for International Development.
- 12 The Secretary of State for Culture, Media and Sport.
- 13 The Minister for the Cabinet Office.
- 14 Her Majesty’s Revenue and Customs.
- 15 The Export Credits Guarantee Department.
- 16 A county council in England.
- 17 A district council in England.
- 18 A London borough council.
- 19 The Common Council of the City of London in its capacity as a local authority.
- 20 The Council of the Isles of Scilly.
- 21 The Greater London Authority.
- 22 The Chief Land Registrar.
- 23 The Big Lottery Fund.
- 24 The Nuclear Decommissioning Authority.
- 25 The Environment Agency.
- 26 The Homes and Communities Agency.
- 27 The Higher Education Funding Council for England.
- 28 The Historic Buildings and Monuments Commission for England.
- 29 The Student Loans Company.
- 30 The British Council.

**Before Schedule 4 - continued**

- 31 The Arts Council of England.
- 32 The English Sports Council.
- 33 The Technology Strategy Board.
- 34 The Arts and Humanities Research Council.
- 35 The Medical Research Council.
- 36 The Natural Environment Research Council.
- 37 The Biotechnology and Biological Sciences Research Council.
- 38 The Economic and Social Research Council.
- 39 The Engineering and Physical Sciences Research Council.
- 40 The Science and Technology Facilities Council.
- 41 A person providing services to a specified person who is a public authority in respect of the taking of action in connection with fraud against a public authority.”

LORD CLEMENT-JONES

BARONESS HAMWEE

*As an amendment to Amendment 33ZYC*

**33ZYD★** Leave out paragraphs 23 to 40

**After Clause 95**

LORD ASHTON OF HYDE

**33ZYE** 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).
- (2) Subsection (4) applies in relation to relevant employees of British Telecommunications public limited company (“BTplc”) becoming employees of another company (a “transferee”) in connection with any part of the undertaking of BTplc being transferred or outsourced (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 employees ceased to be employees of 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;

**After Clause 95 - 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 the regulations 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) where relevant employees of a transferee become employees of another person, that person, and
    - (b) where relevant employees of a successor within paragraph (a) or this paragraph become employees of another person, that person.”

**33ZYF** 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.
- (4) Before making regulations under that section the Secretary of State must consult—

**After Clause 95 - continued**

- (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.”

BARONESS JANKE

BARONESS JONES OF WHITCHURCH

33A

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.
- (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.”

**After Clause 95 - continued**

LORD MOYNIHAN  
LORD CLEMENT-JONES  
LORD STEVENSON OF BALMACARA

**33B** Insert the following new Clause—

**“Duty to provide information about tickets**

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

- “(e) the ticket reference or booking number;
- (f) any specific condition attached to the resale of the ticket.”

**33C** 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 while acting in the course of a business.
- (3) For the purposes of subsection (2), a person is to be treated as acting in the course of a business if he or she does anything as a result of which he or she makes a profit or aims to make a profit.
- (4) A person guilty of an offence under this section shall be liable on summary conviction to—
  - (a) imprisonment for a period not exceeding 51 weeks,
  - (b) a fine not exceeding level 5 on the standard scale, or
  - (c) both.
- (5) In this section—

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

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

**After Clause 95 - continued**

**33D** 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.”

BARONESS HOLLINS

**33E** Insert the following new Clause—

**“Awards of costs in respect of legal claims made in relation to digitally published news-related material**

- (1) This section applies where—
  - (a) a relevant claim is made against a person (“the defendant”),
  - (b) the defendant was a relevant publisher at the material time, and
  - (c) the claim is related to the publication of news-related material which is published on a website.
- (2) If the defendant was a member of an approved regulator at the time when the claim was commenced (or was unable to be a member at that time for reasons beyond the defendant’s control or it would have been unreasonable in the circumstances for the defendant to have been a member at that time), the court must not award costs against the defendant unless satisfied that—
  - (a) the issues raised by the claim could not have been resolved by using an arbitration scheme of the approved regulator, or
  - (b) it is just and equitable in all the circumstances of the case to award costs against the defendant.

**After Clause 95 - continued**

- (3) If the defendant was not a member of an approved regulator at the time when the claim was commenced (but would have been able to be a member at that time and it would have been reasonable in the circumstances for the defendant to have been a member at that time), the court must award costs against the defendant unless satisfied that –
  - (a) the issues raised by the claim could not have been resolved by using an arbitration scheme of the approved regulator (had the defendant been a member), or
  - (b) it is just and equitable in all the circumstances of the case to make a different award of costs or make no award of costs.
- (4) This section is not to be read as limiting any power to make rules of court.
- (5) For the purposes of this section –
 

“relevant publisher” has the same meaning as in section 41 of the Crime and Courts Act 2013;

“relevant claim”, “news-related material”, “material time” and “approved regulator” have the same meanings as in section 42 of that Act;

“publication” has the same meaning as in section 42(9)(a) of that Act.”

LORD LANSLEY  
LORD PUTTNAM

**33F★** Insert the following new Clause –

**“Definition of media enterprise**

- (1) The Enterprise Act 2002 is amended as follows.
- (2) In section 58A(1) (construction of consideration specified in section 58(2C)) for “broadcasting” substitute “the provision of television, radio and other services through which audio-visual content is made generally available to the public, whether by subscription, for payment or otherwise”.

**33G★** Insert the following new Clause –

**“Investigation and report by OFCOM: media mergers**

- (1) The Enterprise Act 2002 is amended as follows.
- (2) In section 44A (additional investigation and report by OFCOM: media mergers), after subsection (4) insert –
  - “(5) In carrying out such an investigation, OFCOM shall have concurrent powers with the Competition and Markets Authority as specified in sections 109 to 115 of this Act.”

**33H★** Insert the following new Clause –

**“Standards: media enterprises**

- (1) The Enterprise Act 2002 is amended as follows.

**After Clause 95 - continued**

(2) In section 58(2C) (specified considerations), at the end of paragraph (c) insert “and to have demonstrated their commitment to the attainment of such standards, where relevant, and other standards that may be prescribed, in relation to their control of media enterprises”.

**33J★**

Insert the following new Clause—

**“Mergers: specified considerations for mergers involving broadcasting media enterprises**

- (1) Section 58 of the Enterprise Act 2002 (specified considerations) is amended as follows.
- (2) After subsection (2C) insert—
  - “(2CA) The need for those who, as a result of a merger, have increased control of media enterprises (excluding newspaper enterprises) which require a broadcasting licence, under section 3(3) of the Broadcasting Act 1990 or the Broadcasting Act 1996, to be fit and proper to hold such a licence having regard in particular to—
    - (a) the extent of any criminal wrongdoing that has taken place by companies and other organisations under their control; and
    - (b) the extent of any failures of corporate governance and management in such companies and organisations.
  - (2CB) The need for there to be, in the governance arrangements of any relevant media enterprise (excluding newspaper enterprises), which provides news services, sufficient safeguards for unrestricted editorial freedom in the provision of full and accurate news services by such media enterprises.
  - (2CC) The need, in relation to the distribution of, and access to, cultural and performing rights, talent and other forms of cultural expression, for there to be a sufficient plurality in the control of such assets available to media enterprises serving the United Kingdom.”

**Clause 97**

LORD LESTER OF HERNE HILL  
LORD PANNICK

LORD INGLEWOOD  
LORD STEVENSON OF BALMACARA

**34**

Page 100, line 25, at end insert—

“( ) section (*The independence and funding of the BBC*);”

LORD ASHTON OF HYDE

**34A**

Page 100, line 26, at end insert—

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

## Clause 97 - continued

BARONESS HOLLINS

34B Page 100, line 28, at end insert –

“( ) Section (*Awards of costs in respect of legal claims made in relation to digitally published news-related material*) comes into force on the day following that on which this Act is passed.”

LORD LANSLEY  
LORD PUTTNAM

34C★ Page 100, line 28, at end insert –

“( ) Section (*Mergers: specified considerations for mergers involving broadcasting media enterprises*) comes into force on the day following that on which this Act is passed.”

LORD CLEMENT-JONES  
LORD FOSTER OF BATH

35 Page 100, line 35, at end insert –

“( ) section 30;”

LORD ASHTON OF HYDE

36 Page 100, line 37, at end insert –

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

37 Page 101, line 5, leave out “Chapter 5, so far as that Chapter relates” and insert “Chapters 5 and 6, so far as those Chapters relate”

38 Page 101, line 9, leave out subsections (5) and (6) and insert –

“( ) The provisions mentioned in subsection (4)(a) and (c) come into force on whatever day the Welsh Ministers appoint by regulations made by statutory instrument.”

LORD CLEMENT-JONES  
BARONESS HAMWEE

39★ Page 101, line 15, at end insert –

“( ) Regulations made under subsections (4), (5) and (6) may not appoint a day before 25 May 2018.”

LORD ASHTON OF HYDE

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

41 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.

**Clause 97 - continued**

- (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

- 42** Line 4, after “data-sharing;” insert “to make provision in connection with section 68 of the Telecommunications Act 1984;”
- 43** Line 10, after “offences;” insert “to confer power to create an offence of breaching limits on ticket sales;”
- 44** Line 10, after “offences;” insert “to make provision about the payment of charges to the Information Commissioner;”

# Digital Economy Bill

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SECOND  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED

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*16 March 2017*

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