

Data Protection Bill [HL]

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

Clause 2

LORD CLEMENT-JONES
LORD MCNALLY

Page 2, line 4, at end insert—

- “() In this Act, unless the context otherwise requires—
- (a) “obtaining” or “recording”, in relation to personal data, includes obtaining or recording the information to be contained in the data, and
 - (b) “using” or “disclosing”, in relation to personal data, includes using or disclosing the information contained in the data.”

Clause 3

BARONESS NEVILLE-ROLFE
LORD ARBUTHNOT OF EDROM

Page 3, line 32, at end insert—

- “(4) This Act does not apply to any organisation employing five employees or fewer.
- (5) Organisations covered by subsection (4) include, but are not limited to—
- (a) small businesses,
 - (b) charities,
 - (c) parish councils.”

Clause 4

LORD ASHTON OF HYDE

Page 3, line 40, at end insert “and to section 183”

Clause 9

LORD CLEMENT-JONES
LORD PADDICK

Page 5, line 25, leave out “substantial”

Clause 10

LORD ASHTON OF HYDE

Page 6, line 12, leave out “supervision” and insert “responsibility”

Page 6, line 16, leave out “this section” and insert “section 9”

Clause 13

LORD ASHTON OF HYDE

Page 7, line 9, leave out “prohibition on taking” and insert “Article 22(1) of the GDPR for”

Page 7, line 10, leave out “for decisions”

Page 7, line 15, at beginning insert “similarly”

Clause 90

LORD ASHTON OF HYDE

Page 51, line 9, leave out “to 96” and insert “and 95 ”

Page 51, line 9, at end insert –

“() section 96 deals with the right to information about decision-making;”

Clause 92

LORD ASHTON OF HYDE

Page 53, line 18, at end insert –

“() A court may make an order under subsection (11) in relation to a joint controller whose responsibilities are determined in an arrangement under section 102 only if the controller is responsible for compliance with the obligation to which the order relates.”

Clause 97

LORD ASHTON OF HYDE

Page 56, line 14, at end insert –

“() A court may make an order under subsection (5) in relation to a joint controller whose responsibilities are determined in an arrangement under section 102 only if the controller is responsible for compliance with the obligation to which the order relates.”

Clause 98

LORD ASHTON OF HYDE

Page 56, line 38, at end insert –

“() A court may make an order under this section in relation to a joint controller whose responsibilities are determined in an arrangement under section 102 only if the controller is responsible for carrying out the rectification, erasure or restriction of processing that the court proposes to order.”

Clause 127

LORD ASHTON OF HYDE

Page 68, line 31, leave out “It is an offence for”

Page 68, line 32, leave out “knowingly or recklessly to” and insert “must not”

Page 68, line 37, leave out “living”

Page 69, line 17, at end insert –

“() It is an offence for a person knowingly or recklessly to disclose information in contravention of subsection (1).”

Clause 133

LORD ASHTON OF HYDE

Page 72, line 33, leave out from beginning to “regulations” in line 34

Clause 139

LORD ASHTON OF HYDE

Page 76, line 2, leave out subsections (1) and (2)

Clause 148

LORD ASHTON OF HYDE

Page 81, line 38, leave out paragraphs (b) and (c) and insert “or

() has failed to comply with an information notice, an assessment notice or an enforcement notice,”

Clause 150

LORD ASHTON OF HYDE

Page 83, line 40, after “with” insert “an information notice, an assessment notice or”

After Clause 153

BARONESS NEVILLE-ROLFE
LORD ARBUTHNOT OF EDROM

Insert the following new Clause—

“The role of the Secretary of State and the Commissioner in informing data controllers of their duties

- (1) The Secretary of State must ensure, either directly or by imposing a duty on the Commissioner, that sufficient information about the duties imposed on businesses by this Act is made publicly available not less than six months before the sections of this Act covered by section 191(1) come into force.
- (2) In exercising the duty in subsection (1) the Secretary of State must—
 - (a) ensure that information setting out the additional duties created by this Act and the GDPR over and above the Data Protection Act 1998 is available online, and
 - (b) have regard to the creation of online training and testing about meeting the requirements of the regime created by this Act.
- (3) Before making regulations under section 191(1), the Secretary of State must lay a report before both Houses of Parliament outlining the steps taken to comply with this section.”

Clause 164

LORD ASHTON OF HYDE

Page 93, line 6, leave out from “processor” to “which” in line 7

Page 93, line 8, at end insert “and which are—

- (a) proceedings under section 158 (including proceedings on an application under Article 79 of the GDPR), or
- (b) proceedings under Article 82 of the GDPR or section 160 .”

Clause 166

LORD ASHTON OF HYDE

Page 94, line 27, leave out “or tribunal”

Page 94, line 28, leave out “or tribunal”

Page 94, line 34, leave out “or tribunal”

Page 94, line 34, after “stay” insert “or, in Scotland, sist”

Clause 166 - continued

Page 94, line 38, leave out “or tribunal”

Page 94, line 38, after “stay” insert “or sist”

Page 94, line 42, after “stayed” insert “or sisted”

Clause 168

LORD ASHTON OF HYDE

Page 95, leave out lines 23 to 26

Clause 169

LORD ASHTON OF HYDE

Page 96, line 8, leave out “or 24”

Clause 184

LORD ASHTON OF HYDE

Page 105, line 21, at end insert “(and related expressions are to be read accordingly)”

Clause 185

LORD ASHTON OF HYDE

Page 106, leave out lines 8 and 9

Schedule 1

LORD ASHTON OF HYDE

Page 113, line 8, leave out “supervision” and insert “responsibility”

Page 120, line 37, after “Commons” insert “, a member of the National Assembly for Wales”

Page 121, line 1, at end insert –

“20A This condition is met if the processing –

- (a) consists of the publication of a judgment or other decision of a court, or
- (b) is necessary for the purposes of publishing such a judgment or decision.”

Page 121, line 3, leave out “carried out” and insert “necessary”

Page 121, line 4, leave out “in connection with” and insert “for the purposes of”

Schedule 1 - continued

Page 121, line 5, leave out “supervision of a body with responsibility” and insert “responsibility of a body or association that is responsible”

Page 121, line 9, at end insert “or association”

Page 121, line 11, at end insert –

- “21A(1) This condition is met if the processing –
- (a) is necessary for the purposes of measures designed to protect the integrity of a sport or a sporting event,
 - (b) must be carried out without the consent of the data subject so as not to prejudice those purposes, and
 - (c) is necessary for reasons of substantial public interest.
- (2) In sub-paragraph (1)(a), the reference to measures designed to protect the integrity of a sport or a sporting event is a reference to measures designed to protect a sport or a sporting event against –
- (a) dishonesty, malpractice or other seriously improper conduct, or
 - (b) failure by a person participating in the sport or event in any capacity to comply with standards of behaviour set by a body or association with responsibility for the sport or event.”

Page 121, line 36, leave out from “processing” to end of line 38 and insert “–

- (a) is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings),
- (b) is necessary for the purpose of obtaining legal advice, or
- (c) is otherwise necessary for the purposes of establishing, exercising or defending legal rights.”

Page 121, line 38, at end insert –

“26A This condition is met if the processing is necessary when a court is acting in its judicial capacity.”

Schedule 2

LORD CLEMENT-JONES
LORD PADDICK

Page 125, line 41, leave out paragraph 4

LORD ASHTON OF HYDE

Page 126, line 29, leave out “is necessary”

Page 126, line 30, at beginning insert “is necessary”

Page 126, line 31, leave out from “proceedings),” to “establishing” in line 32 and insert –

- “() is necessary for the purpose of obtaining legal advice, or

Schedule 2 - continued

() is otherwise necessary for the purposes of”

Page 127, line 33, leave out from “bankrupts” to end of line 38

Page 127, line 38, at end insert –

“1A. The function is designed to protect members of the public against – dishonesty, malpractice or other seriously improper conduct by persons who carry on any activity that brings them into contact with members of the public, or the unfitness or incompetence of persons who carry on any activity that brings them into contact with members of the public.

The function is of a public nature, or is exercised in the public interest.”

Page 130, line 2, at end insert –

Schedule 2 - continued

“A1. The Commissioner.

By or under – the data protection legislation; the Freedom of Information Act 2000; the Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2426); the Environmental Information Regulations 2004 (S.I. 2004/3391); the INSPIRE Regulations 2009 (S.I. 2009/3157); Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC; the Re-use of Public Sector Information Regulations 2015 (S.I. 2015/1415); the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 (S.I. 2016/696).

A2. The Pensions Ombudsman.	By or under Part 10 of the Pension Schemes Act 1993 or any corresponding legislation having equivalent effect in Northern Ireland.
A3. The Board of the Pension Protection Fund.	By or under sections 206 to 208 of the Pensions Act 2004 or any corresponding legislation having equivalent effect in Northern Ireland.
A4. The Ombudsman for the Board of the Pension Protection Fund.	By or under any of sections 209 to 218 or 286(1) of the Pensions Act 2004 or any corresponding legislation having equivalent effect in Northern Ireland.
A5. The Pensions Regulator.	By or under any enactment.”

Page 135, line 42, at end insert –

“() the placement (or prospective placement) of the data subject as a volunteer,”

LORD CLEMENT-JONES
LORD MCNALLY

Page 137, line 14, leave out paragraph (c)

LORD ASHTON OF HYDE

Page 137, line 45, leave out sub-paragraph (9)

Page 138, line 10, at beginning insert “For the purposes of this paragraph,”

Page 138, line 30, at beginning insert “For the purposes of this paragraph,”

Schedule 3

LORD ASHTON OF HYDE

Page 140, line 35, at end insert –

“(ea) the Sheriff Court Adoption Rules 2009;”

Page 142, line 43, after “1970” insert “or the Social Services and Well-being (Wales) Act 2014”

Page 146, line 4, at end insert –

“(ea) the Sheriff Court Adoption Rules 2009;”

Page 147, line 19, leave out “governing body” and insert “proprietor”

Page 147, line 28, leave out paragraph (b) and insert –

“(b) an Academy school;
(c) an alternative provision Academy;

Schedule 3 - continued

- (d) an independent school that is not an Academy school or an alternative provision Academy;
- (e) a non-maintained special school.”

Page 147, line 35, leave out from “1998),” to end of line 36 and insert –

- “(ii) an Academy school,
- (iii) an alternative provision Academy,
- (iv) an independent school that is not an Academy school or an alternative provision Academy, or
- (v) a non-maintained special school,”

Page 147, line 38, leave out “governing body” and insert “proprietor”

Page 147, line 43, leave out from “paragraph” to end of line 44 and insert “ –

“independent school” has the meaning given by section 463 of the Education Act 1996;

“local authority” has the same meaning as in that Act (see sections 579(1) and 581 of that Act);

“non-maintained special school” has the meaning given by section 337A of that Act;

“proprietor” has the meaning given by section 579(1) of that Act.”

Page 149, line 43, at end insert –

“(ea) the Sheriff Court Adoption Rules 2009;”

Schedule 4

LORD ASHTON OF HYDE

Page 152, line 6, leave out paragraph (d)

Schedule 5

LORD ASHTON OF HYDE

Page 155, line 39, at end insert “appointed under sub-paragraph (3) or (4)”

Page 156, line 2, leave out “(7)” and insert “(8)”

Schedule 6

LORD ASHTON OF HYDE

Page 157, leave out lines 11 to 14 and insert –

“(2) But sub-paragraph (1) does not have effect –

- (a) in the case of the references which are modified or inserted by paragraphs 9(f)(ii), 15(b), 16(a)(ii), 35, 36(a) and (e)(ii) and 38(a)(i);

Schedule 6 - continued

- (b) in relation to the references in points (a) and (b) of paragraph 2 of Article 61, as inserted by paragraph 49.”

Page 157, line 20, leave out from beginning to ““domestic” and insert “In this paragraph,”

Page 157, line 28, at end insert “(including paragraph 3(1))”

LORD CLEMENT-JONES
LORD PADDICK

Page 158, line 34, leave out paragraph (d)

LORD ASHTON OF HYDE

Page 158, line 38, at end insert –

“(ii) for “Article 51” substitute “Article 51 of the GDPR;”

Page 159, line 3, at end insert –

“(28) “domestic law” has the meaning given in paragraph 3(3) of Schedule 6 to the 2017 Act.”

Page 159, line 33, after “9” insert “of the 2017 Act”

Page 163, line 13, at end insert –

“(d) in paragraph 9, for “of this Article” substitute “of Article 45 of the GDPR.”

Page 163, line 40, after “Act” insert “which makes certain provision about the public interest”

Page 165, line 2, at end insert –

“(ba) in paragraph 3, in point (b), for “the Member State government” substitute “the Secretary of State;”

Page 166, line 12, at end insert –

“(za) in paragraph 5, in point (d), for “pursuant to Member State law adopted under Chapter IX” substitute “under Part 5 or 6 of Schedule 2 to the 2017 Act or under regulations made under section 15 of that Act;”

Page 166, line 14, at end insert –

“(ii) for “that Member State” substitute “the United Kingdom;”

Schedule 7

LORD ASHTON OF HYDE

Page 168, line 13, leave out paragraph 3 and insert—

“3 Any Northern Ireland department.”

Page 168, line 13, at end insert—

“3A The Welsh Ministers.”

Page 168, line 36, after “The” insert “Director General of the”

Page 169, line 4, at end insert—

“20A The Welsh Revenue Authority.

20B Revenue Scotland.”

Page 169, line 9, at end insert—

“25A The Competition and Markets Authority.

25B The Gas and Electricity Markets Authority.

25C The Food Standards Agency.

25D Food Standards Scotland.

25E Her Majesty’s Land Registry.”

Schedule 8

LORD ASHTON OF HYDE

Page 170, line 20, at end insert “or rule of law”

Page 170, line 28, leave out from “processing” to end of line 30 and insert “—

- (a) is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings),
- (b) is necessary for the purpose of obtaining legal advice, or
- (c) is otherwise necessary for the purposes of establishing, exercising or defending legal rights.”

Page 170, line 30, at end insert—

“4A This condition is met if the processing is necessary when a court or other judicial authority is acting in its judicial capacity.”

Schedule 9

LORD ASHTON OF HYDE

Page 171, line 34, at end insert “or rule of law”

Schedule 10

LORD ASHTON OF HYDE

Page 173, line 6, after “enactment” insert “or rule of law”

Schedule 11

LORD ASHTON OF HYDE

Page 174, line 18, leave out “is necessary”

Page 174, line 19, at beginning insert “is necessary”

Page 174, line 20, leave out from “proceedings),” to “establishing” in line 21 and insert—

- “() is necessary for the purpose of obtaining legal advice, or
- () is otherwise necessary for the purposes of”

Schedule 16

LORD ASHTON OF HYDE

Page 189, line 9, after first “notice” insert “to a person”

Page 189, line 11, at end insert “, subject to sub-paragraph (3).”

- (3) The period for giving a penalty notice to a person may be extended by agreement between the Commissioner and the person.”

Page 189, line 21, leave out paragraph (d)

In the Title

LORD ASHTON OF HYDE

Line 4, leave out “conduct” and insert “practice”

Data Protection Bill [HL]

AMENDMENTS
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IN COMMITTEE OF THE WHOLE HOUSE

20 October 2017
