

Data Protection Bill [HL]

AMENDMENTS
TO BE MOVED
ON REPORT

After Clause 1

LORD ASHTON OF HYDE

Insert the following new Clause—

“Protection of personal data

- (1) The GDPR, the applied GDPR and this Act protect individuals with regard to the processing of personal data, in particular by—
 - (a) requiring personal data to be processed lawfully, on the basis of the data subject’s consent or another specified basis,
 - (b) conferring rights on the data subject to obtain information about the processing of personal data, and
 - (c) conferring functions on the Commissioner, giving the holder of that office responsibility for monitoring and enforcing their provisions.
- (2) When carrying out functions under the GDPR, the applied GDPR and this Act, the Commissioner must have regard to the importance of securing an appropriate level of protection for personal data, taking account of the interests of data subjects, controllers and others and matters of general public interest.”

LORD STEVENSON OF BALMACARA

Insert the following new Clause—

“Right to protection of personal data

- (1) Everyone has the right to the protection of personal data concerning him or her.
- (2) Such personal data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law.
- (3) Everyone has the right of access to personal data which has been collected concerning him or her, and the right to have it rectified.
- (4) Compliance with these rules is subject to control by the Commissioner.

After Clause 1 - continued

- (5) Restrictions on the rights of a data subject and any limitation on the exercise of the right to the protection of personal data under this section must be provided for by legislation, and also respect the essence of the right.
- (6) Subject to the principle of proportionality, the restrictions and limitations under subsection (5) may be made only if they are necessary to support a democratic society and meet objectives of the public interest or the need to protect the rights and freedoms of others.
- (7) A court or tribunal determining a question which has arisen in connection with the right to protection of personal data provided for under this section must take into account any relevant judgment, decision, declaration or advisory opinion of the—
 - (a) Court of Justice of the European Union; and
 - (b) European Court of Human Rights.”

Clause 9

LORD CLEMENT-JONES
LORD PADDICK

Page 5, line 37, at end insert—

- “() The processing is processing of biometric data and meets the requirements of Article 9(4) of the GDPR for authorisation by the law of the United Kingdom or part of the United Kingdom only if it meets the condition in paragraph 11A of Part 2 of Schedule 1.”

Page 6, line 8, leave out “affirmative resolution procedure” and insert “super-affirmative resolution procedure under section 18 of the Legislative and Regulatory Reform Act 2006, with references in that section to section 14 to be read as references to this section of this Act”

Schedule 1

LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK

Page 115, line 13, leave out paragraph (a) and insert—

- “(a) is necessary for archiving or statistical purposes, scientific, social science or historical research, technological sciences, humanity studies or for new ideas,”

Page 115, line 17, at end insert—

- “() In this paragraph, “research” includes—
 - (a) science, technology, humanities and new ideas, and
 - (b) all research conducted under the auspices of the UK Research and Innovation programme.”

Schedule 1 - continued

Page 115, line 17, at end insert –

“() In this paragraph, “archiving” includes collections of physical and digital materials.”

LORD STEVENSON OF BALMACARA

Page 116, line 16, at end insert –

“Personal data revealing age	People of different ages
Personal data revealing an individual’s gender	People of different genders
Personal data revealing an individual to be transsexual	People who have the protected characteristic of “gender reassignment” under section 7(1) of the Equalities Act 2010 (gender reassignment)
Personal data revealing a disability	People with a disability or disabilities
Personal data revealing an individual’s pregnancy or period of maternity leave or shared parental leave	People who are pregnant or are recent parents
Personal data revealing marital status	People of different marital statuses”

LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK

Page 117, line 12, at end insert –

“() In this paragraph, “protective function” can also mean a function which is intended to protect a body or association against dishonesty, malpractice or other seriously improper conduct.”

LORD CLEMENT-JONES
LORD PADDICK

Page 118, line 8, at end insert –

“*Biometric data for identity verification and authentication*

11A(1) This condition is met if –

- (a) the processing is necessary for identity verification or authentication, including to provide ongoing security or identity assurance in respect of services provided to individuals,

Schedule 1 - continued

- (b) the processing is a necessary and proportionate method to provide secure access to premises, or
 - (c) the processing is necessary for internal research and development to improve a biometric identity verification and authentication technology and process.
- (2) Processing under subparagraph (1) must be accompanied by a data protection impact assessment.
- (3) Processing under paragraph 1(c) is to be carried out so that—
- (a) the data is not processed to support measures or decisions with respect to particular individuals, and
 - (b) the data is not processed in such a way that substantial damage or substantial distress is, or is likely to be, caused to any data subject.
- (4) Processing carried out in accordance with sub-paragraph (1)(c) is compatible with the purposes for which the data was obtained and so not in breach of Article 5(1)(b) of the GDPR (purpose limitation principle).
- (5) Processing carried out in accordance with sub-paragraph (1)(c) is exempt from Article 15 of the GDPR (right of access by the data subject) providing that the results of the research or any resulting statistics are not made available in a form which identifies data subjects.”

LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK

Page 118, line 11, leave out “in good faith”

Page 118, line 17, at end insert—

- “() This condition is further met if the processing is necessary for the purposes of making a disclosure in good faith in—
- (a) compliance with laws that require measures to be taken to prevent or detect money laundering, terrorist financing or other financial crime, or
 - (b) adherence to a code for the prevention or detection of money laundering, terrorist financing or other financial crime, which has been approved by either—
 - (i) the Commissioner or other competent authority, or
 - (ii) an intergovernmental body in which the United Kingdom is represented.”

Schedule 2

LORD ASHTON OF HYDE

Page 129, line 18, leave out “listed GDPR provisions” and insert “GDPR provisions listed in sub-paragraph (1A)”

Page 129, line 24, at end insert—

- “(1A) The GDPR provisions referred to in sub-paragraph (1) are—

Schedule 2 - continued

- (a) the following provisions of the GDPR (the rights and obligations in which may be restricted by virtue of Article 23(1) of the GDPR) –
- (i) Article 13(1) to (3) (personal data collected from data subject: information to be provided);
 - (ii) Article 14(1) to (4) (personal data collected other than from data subject: information to be provided);
 - (iii) Article 15(1) to (3) (confirmation of processing, access to data and safeguards for third country transfers);
 - (iv) Article 17(1) and (2) (right to erasure);
 - (v) Article 18(1) (restriction of processing);
 - (vi) Article 21(1) (objections to processing);
 - (vii) Article 5 (general principles) so far as its provisions correspond to the rights and obligations provided for in the provisions mentioned in sub-paragraphs (i) to (vi); and
- (b) the following provisions of the GDPR (the application of which may be adapted by virtue of Article 6(3) of the GDPR) –
- (i) Article 5(1)(a) (lawful, fair and transparent processing), other than the lawfulness requirements set out in Article 6;
 - (ii) Article 5(1)(b) (purpose limitation).

(That is, the listed GDPR provisions other than Article 16 (right to rectification) and Article 20(1) and (2) (right to data portability).)”

Clause 15

LORD CLEMENT-JONES
LORD PADDICK

Page 9, line 20, leave out “affirmative resolution procedure” and insert “super-affirmative resolution procedure under section 18 of the Legislative and Regulatory Reform Act 2006, with references in that section to section 14 to be read as references to this section of this Act”

Clause 113

LORD ASHTON OF HYDE

Page 62, line 3, at end insert –

“(and see also the Commissioner’s duty under section (*Protection of personal data*))”

Clause 114

LORD ASHTON OF HYDE

Page 63, line 2, at end insert “(and see also the Commissioner’s duty under section (*Protection of personal data*))”

After Clause 120

LORD ASHTON OF HYDE

Insert the following new Clause—

“Age-appropriate design code

- (1) The Commissioner must prepare a code of practice which contains such guidance as the Commissioner considers appropriate to promote good practice in the age-appropriate design of relevant information society services offered directly to children.
- (2) Where a code under this section is in force, the Commissioner may prepare amendments of the code or a replacement code.
- (3) Before preparing a code or amendments under this section, the Commissioner must consult the Secretary of State and any other persons whom the Commissioner considers it appropriate to consult.
- (4) In preparing a code or amendments under this section, the Commissioner must have regard—
 - (a) to the fact that children have different needs at different ages,
 - (b) to the United Kingdom’s obligations under the United Nations Convention on the Rights of the Child, and
 - (c) to any guidance issued by the Secretary of State under section (*Age-appropriate design code: guidance for the Commissioner*).
- (5) A code under this section may include transitional provision or savings.
- (6) In this section—

“age-appropriate design” means the design of services so that they are appropriate for use by children;

“good practice in the age-appropriate design of relevant information society services” means such practice in the age-appropriate design of such services as appears to the Commissioner to be desirable having regard to the interests of children;

“information society services” has the same meaning as in the GDPR, but does not include preventive or counselling services;

“relevant information society services” means information society services which involve the processing of personal data to which the GDPR applies;

“the United Nations Convention on the Rights of the Child” means the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20th November 1989 (including any Protocols to that Convention which are in force in relation to the United Kingdom), subject to any reservations, objections or interpretative declarations by the United Kingdom for the time being in force.”

Insert the following new Clause—

“Age-appropriate design code: guidance for the Commissioner

- (1) The Secretary of State may issue guidance to the Commissioner in relation to the code of practice under section (*Age-appropriate design code*).

After Clause 120 - continued

- (2) The Secretary of State may from time to time revise the guidance under this section.
- (3) The Secretary of State must lay before both Houses of Parliament any guidance, and any revised guidance, issued under this section.”

Clause 121

LORD ASHTON OF HYDE

Page 66, line 13, leave out “or 120” and insert “, 120 or (*Age-appropriate design code*)”

Page 66, line 23, leave out “or 120” and insert “, 120 or (*Age-appropriate design code*)”

Page 66, line 36, leave out “and 120” and insert “, 120 and (*Age-appropriate design code*)”

Clause 122

LORD ASHTON OF HYDE

Page 67, line 5, leave out “or 120(2)” and insert “, 120(2) or (*Age-appropriate design code*) (2)”

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6 December 2017
