

Data Protection Bill [HL]

AMENDMENTS
TO BE MOVED
ON REPORT

[Supplementary to the Second Marshalled List]

Schedule 12

LORD PUTTNAM
LORD STEVENSON OF BALMACARA
LORD CLEMENT-JONES
LORD HOLMES OF RICHMOND

Page 184, line 4, at end insert “and such remuneration and other conditions of service must be affordable, realistic and responsible”

Page 184, line 14, at end insert –

- “() In making a determination under sub-paragraph (2) or a payment under sub-paragraph (3) or otherwise in managing the Commissioner’s affairs, the Commissioner must have regard –
- (a) to such rules and guidance concerning the management of the affairs of public bodies as the Commissioner considers appropriate; and
 - (b) subject to any such rules and guidance and only to the extent that they may reasonably be regarded as applicable in relation to a statutory corporation sole, to generally accepted principles of good corporate governance.”

Page 185, line 2, leave out from “All” to “are” in line 3 and insert “penalties received by the Commissioner under a penalty notice served in accordance with section 148 and under Schedule 16”

Clause 129

LORD PUTTNAM
LORD STEVENSON OF BALMACARA
LORD CLEMENT-JONES
LORD HOLMES OF RICHMOND

Page 70, line 23, after “fee” insert “set on the principle of cost recovery”

Clause 132

LORD PUTTNAM
LORD STEVENSON OF BALMACARA
LORD CLEMENT-JONES
LORD HOLMES OF RICHMOND

Page 71, line 5, leave out “may” and insert “must”

Page 72, line 7, at end insert –

- “(9) At the end of the accounting year, the Commissioner may carry forward to the following accounting year any deficit or surplus in the charges, fees or other sums the Commissioner has received or which are receivable under section 129 and under regulations made under section 132, measured against the sums paid or payable by the Commissioner for that year that are necessary to exercise the Commissioner’s functions and powers.”

Clause 173

LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK
LORD CLEMENT-JONES
BARONESS KIDRON

Page 98, line 37, at end insert –

- “(4A) In accordance with Article 80(2) of the GDPR, a person who satisfies the conditions in Article 80(1) and who considers that the rights of a data subject under the GDPR have been infringed as a result of data processing may bring proceedings, on behalf of the data subject and independently of the data subject’s mandate –
- (a) pursuant to Article 77 (right to lodge a complaint with a supervisory authority);
 - (b) to exercise the rights referred to in Article 78 (right to an effective judicial remedy against a supervisory authority);
 - (c) to exercise the rights referred to in Article 79 (right to an effective judicial remedy against a controller or processor).
- (4B) An individual who considers that rights under the GDPR, this Act or any other enactment relating to data protection have been infringed in respect of a class of individuals of which he or she forms part may bring proceedings in respect of the infringement as a representative of the class (independently of the mandate of other members of the class); and –
- (a) for the purposes of this subsection “proceedings” includes proceedings for damages, and any damages recovered are to be distributed or otherwise applied as directed by the court;
 - (b) in the case of a class consisting of or including children under the age of 18, an individual may bring proceedings as a representative of the class whether or not the individual’s own rights have been infringed;

Clause 173 - continued

- (c) the court in which proceedings are brought may direct that the individual may not act as a representative, or may act as a representative only to a specified extent, for a specified purpose or subject to specified conditions;
 - (d) a direction under paragraph (c) may (subject to any provision of rules of court relating to proceedings under this subsection) be made on the application of a party or a member of the class, or of the court's own motion; and
 - (e) subject to any direction of the court, a judgment or order given in proceedings in which a party is acting as a representative under this subsection is binding on all individuals represented in the proceedings, but may only be enforced by or against a person who is not a party to the proceedings with the permission of the court.
- (4C) Subsections (4A) and (4B) –
- (a) apply in respect of infringements occurring (or alleged to have occurred) whether before or after the commencement of this section;
 - (b) apply to proceedings begun before the commencement of this section as if references in subsections (4A) and (4B) to bringing proceedings included a reference to continuing proceedings; and
 - (c) are without prejudice to the generality of any other enactment or rule of law which permits the bringing of representative proceedings.”

Clause 195

LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK
LORD CLEMENT-JONES
BARONESS KIDRON

Page 112, line 32, at end insert –

“() section 173(4A) to (4C);”

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5 January 2018
