

# Data Protection Bill [HL]

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## AMENDMENTS TO BE MOVED ON THIRD READING

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### Clause 144

LORD ASHTON OF HYDE

Page 79, line 26, at end insert –

- “( ) An information notice does not require a person to give the Commissioner information to the extent that requiring the person to do so would involve an infringement of the privileges of either House of Parliament.”

### Clause 147

LORD ASHTON OF HYDE

Page 81, line 37, at end insert –

- “( ) An assessment notice does not require a person to do something to the extent that requiring the person to do it would involve an infringement of the privileges of either House of Parliament.”

### Clause 151

LORD ASHTON OF HYDE

Page 85, line 27, at end insert –

- “( ) An enforcement notice does not require a person to do something to the extent that requiring the person to do it would involve an infringement of the privileges of either House of Parliament.”

### Clause 155

LORD ASHTON OF HYDE

Page 87, line 28, at end insert –

- “( ) The Commissioner may not give a controller or processor a penalty notice with respect to the processing of personal data where the purposes and manner of the processing are determined by or on behalf of either House of Parliament.”

Page 87, line 31, leave out “under” and insert “by virtue of”

**Clause 202**

LORD ASHTON OF HYDE

Page 119, line 33, leave out from beginning to end of line 34 and insert –

“(5A) As regards criminal liability –

- (a) a government department is not liable to prosecution under this Act;
- (b) nothing in subsection (4) makes a person who is a controller by virtue of that subsection liable to prosecution under this Act;
- (c) a person in the service of the Crown is liable to prosecution under the provisions of this Act listed in subsection (6).

(6) Those provisions are –”

Page 119, line 40, leave out subsection (7)

**Clause 203**

LORD ASHTON OF HYDE

Page 120, line 15, leave out from beginning to end of line 16 and insert –

“(4A) As regards criminal liability –

- (a) nothing in subsection (2) or (3) makes the Corporate Officer of the House of Commons or the Corporate Officer of the House of Lords liable to prosecution under this Act;
- (b) a person acting on behalf of either House of Parliament is liable to prosecution under the provisions of this Act listed in subsection (5).

“(5) Those provisions are –”

Page 120, line 21, leave out subsection (6)

**Schedule 1**

LORD ASHTON OF HYDE

Page 123, line 30, leave out paragraphs (a) and (b)

Page 123, line 35, at end insert –

“6A This condition is met if the processing is necessary –

- (a) for the administration of justice, or
- (b) for the exercise of a function of either House of Parliament.”

Page 126, line 34, leave out from beginning to end of line 34 on page 128 and insert –

“13A (1) This condition is met if the processing –

- (a) is necessary for an insurance purpose,
- (b) is of personal data revealing racial or ethnic origin, religious or philosophical beliefs or trade union membership, genetic data or data concerning health, and
- (c) is necessary for reasons of substantial public interest,

**Schedule 1 - continued**

subject to sub-paragraphs (2) and (3).

- (2) Sub-paragraph (3) applies where—
  - (a) the processing is not carried out for the purposes of measures or decisions with respect to the data subject, and
  - (b) the data subject does not have and is not expected to acquire—
    - (i) rights against, or obligations in relation to, a person who is an insured person under an insurance contract to which the insurance purpose mentioned in sub-paragraph (1)(a) relates, or
    - (ii) other rights or obligations in connection with such a contract or in connection with a claim to which the insurance purpose mentioned in sub-paragraph (1)(a) relates.
- (3) Where this sub-paragraph applies, the processing does not meet the condition in sub-paragraph (1) unless, in addition to meeting the requirements in that sub-paragraph, it can reasonably be carried out without the consent of the data subject.
- (4) For the purposes of sub-paragraph (3), processing can reasonably be carried out without the consent of the data subject only where—
  - (a) the controller cannot reasonably be expected to obtain the consent of the data subject, and
  - (b) the controller is not aware of the data subject withholding consent.
- (5) In this paragraph—

“insurance contract” means a contract of general insurance or long-term insurance;

“insurance purpose” means—

  - (a) advising on, arranging, underwriting or administering an insurance contract,
  - (b) administering a claim under an insurance contract,
  - (c) administering a claim against the Motor Insurers’ Bureau (being the company of that name incorporated on 14 June 1946 under the Companies Act 1929), or
  - (d) exercising a right, or complying with an obligation, arising in connection with an insurance contract or a claim mentioned in paragraph (c), including a right or obligation arising under an enactment or rule of law.
- (6) Terms used in the definition of “insurance contract” in sub-paragraph (5) and also in an order made under section 22 of the Financial Services and Markets Act 2000 (regulated activities) have the same meaning in that definition as they have in that order.”

Page 134, line 21, at end insert—

- “32A This condition is met if the processing—
- (a) would meet the condition in paragraph 13A in Part 2 of this Schedule (the “insurance condition”), or
  - (b) would meet the condition in paragraph 32 by virtue of the insurance condition,

**Schedule 1 - continued**

but for the requirement for the processing to be processing of a category of personal data specified in paragraph 13A(1)(b).”

**Schedule 2**

LORD ASHTON OF HYDE

Page 144, line 2, after “provisions” insert “and Article 34(1) and (4) of the GDPR (communication of personal data breach to the data subject)”

**Schedule 6**

LORD ASHTON OF HYDE

Page 182, line 6, leave out “and (d)”

**Schedule 8**

LORD ASHTON OF HYDE

Page 184, line 24, leave out “a purpose listed in sub-paragraph (2)” and insert “the exercise of a function conferred on a person by an enactment or rule of law”

Page 184, line 26, leave out sub-paragraph (2) and insert—

“1A This condition is met if the processing is necessary for the administration of justice.”

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*11 January 2018*

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