

Data Protection Bill [HL]

MARSHALLED LIST OF AMENDMENTS TO BE MOVED ON CONSIDERATION OF COMMONS AMENDMENTS

[The page and line refer to Bill 153, the Bill as first printed for the Commons]

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

COMMONS AMENDMENTS 53 AND 207

Clause 121

53 Leave out Clause 121

53A **Lord Mitchell to move, as an Amendment to the motion that this House do agree with the Commons in their Amendment 53, at end insert “, and do propose Amendment 53B instead of the words left out of the Bill by this Amendment and by Amendment 207”.**

After Clause 120

53B Insert the following new Clause –

“Personal data of national significance

- (1) Within a year of the passing of this Act, the Secretary of State must bring forward regulations made by statutory instrument which –
 - (a) require the ICO to maintain a register of publicly controlled personal data of national significance;
 - (b) require the NAO to prepare a code of practice for data controllers which contains practical guidance on how to obtain best value in relation to the commercial exploitation of personal data of national significance;
 - (c) require the NAO to report annually to Parliament on the commercial exploitation of publicly controlled personal data of national significance.
- (2) A statutory instrument containing regulations under subsection (1) 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) For the purposes of subsection (1), personal data controlled by public bodies is data of national significance if, in the opinion of the Commissioner—
- (a) the data furthers collective economic, social or environmental well-being,
 - (b) the data has the potential to further collective economic, social or environmental well-being in future, and
 - (c) financial benefit may be derived from processing the data or the development of associated software.”

Schedule 13

207 Page 194, line 36, leave out from beginning to end of line 4 on page 195

COMMONS AMENDMENT 62

Clause 142

62 Leave out Clause 142

62A★ **Baroness Hollins to move, as an Amendment to the motion that this House do agree with the Commons in their Amendment 62, at end insert “, and do propose Amendment 62B instead of the words so left out of the Bill”.**

After Clause 141

62B★ Insert the following new Clause—

“Data protection breaches by national news publishers

- (1) The Secretary of State must, within the period of three months beginning with the day on which this Act is passed, establish an inquiry under the Inquiries Act 2005 into allegations of data protection breaches committed by or on behalf of national news publishers and other media organisations.
- (2) Before setting the terms of reference of and other arrangements for the inquiry the Secretary of State must—
 - (a) consult the Scottish Ministers with a view to ensuring, in particular, that the inquiry will consider the separate legal context and other circumstances of Scotland;
 - (b) consult Northern Ireland Ministers and members of the Northern Ireland Assembly with a view to ensuring, in particular, that the inquiry will consider the separate legal context and other circumstances of Northern Ireland;
 - (c) consult persons appearing to the Secretary of State to represent the interests of victims of data protection breaches committed by, on behalf of or in relation to, national news publishers and other media organisations; and
 - (d) consult persons appearing to the Secretary of State to represent the interests of national news publishers and other media organisations (having regard in particular to organisations representing journalists).

- (3) The terms of reference for the inquiry must include requirements –
 - (a) to inquire into the extent of unlawful or improper conduct by or on behalf of national news publishers and other media organisations in respect of personal data;
 - (b) to inquire into the extent of corporate governance and management failures and the role, if any, of politicians, public servants and others in relation to failures to investigate wrongdoing at media organisations within the scope of the inquiry;
 - (c) to review the protections and provisions around media coverage of individuals subject to police inquiries, including the policy and practice of naming suspects of crime prior to any relevant charge or conviction;
 - (d) to investigate the dissemination of information and news, including false news stories, by social media organisations using personal data;
 - (e) to consider the adequacy of the current regulatory arrangements and the resources, powers and approach of the Information Commissioner and any other relevant authorities in relation to –
 - (i) the news publishing industry (except in relation to entities regulated by Ofcom) across all platforms and in the light of experience since 2012;
 - (ii) social media companies;
 - (f) to make such recommendations as appear to the inquiry to be appropriate for the purpose of ensuring that the privacy rights of individuals are balanced with the right to freedom of expression, while supporting the integrity and freedom of the press, and its independence (including independence from Government), and encouraging the highest ethical and professional standards.
- (4) In setting the terms of reference for the inquiry the Secretary of State must –
 - (a) have regard to the current context of the news, publishing and general media industry;
 - (b) set appropriate parameters for determining which allegations are to be considered;
 - (c) determine the meaning and scope of references to “national news publishers” and “other media organisations” for the purposes of the inquiry under this section; and
 - (d) include exemptions or limitations designed to exclude local and regional publishers from the scope of the inquiry.
- (5) Before complying with subsection (4) the Secretary of State must consult the judge or other person whom they intend to invite to chair the inquiry.
- (6) The inquiry –
 - (a) may, so far as it considers appropriate, consider evidence given to previous public inquiries;
 - (b) may, so far as it considers appropriate, take account of the findings of and evidence given to previous public inquiries (and the inquiry must consider using this power for the purpose of avoiding the waste of public resources); and

- (c) must, in particular, consider to what extent previous public inquiries have investigated, and made findings in relation to, events in connection with Northern Ireland within the inquiry's terms of reference, and must take such further evidence and make such further recommendations in respect of those matters as the inquiry considers appropriate.

- (7) This section comes into force on the passing of this Act.”

COMMONS AMENDMENT 175

Schedule 2

- 175** Page 137, line 11, at end insert “and, subject to sub-paragraph (2)(vii) of this paragraph, the provisions of Article 5 listed in paragraph 1(b).”

BARONESS HAMWEE

[As an amendment to Commons Amendment 175]

- 175A★** At end insert –

- “() Following consultation with the Commissioner and the public, the Secretary of State must, within the period of six months beginning with the day on which this paragraph comes into force, produce guidance about how, subject to sub-paragraph (2)(a)(vii) above, the provisions of Article 5 listed in paragraph 1(b) apply in relation to this paragraph.”

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