

Crime (Overseas Production Orders) Bill [HL]

COMMONS AMENDMENTS

[The page and line refer to Bill 293, the Bill as first printed for the Commons]

Clause 1

- 1 Page 1, line 20, leave out subsections (5) and (6)

Clause 4

- 2 Page 5, line 25, at end insert—

“(5A) The judge must be satisfied that there are reasonable grounds for believing that all or part of the electronic data specified or described in the application for the order is likely to be relevant evidence in respect of the offence mentioned in subsection (3)(a).
This requirement does not apply where the order is sought for the purposes of a terrorist investigation.”

- 3 Page 6, line 15, at end insert—

“(9A) For the purpose of subsection (5A), “relevant evidence”, in relation to an offence, means anything that would be admissible in evidence in proceedings in respect of the offence.”

Clause 6

- 4 Page 7, line 19, at end insert—

“(ba) does not require the person to do anything that (taking into account the existence of the overseas production order) would result in the person contravening the data protection legislation, and”

- 5 Page 7, line 20, after “effect” insert “, subject to paragraph (ba),”

Clause 10

- 6 Page 9, line 28, at end insert—

“(1A) Subsection (1) does not authorise the doing of anything that contravenes the data protection legislation.”

Clause 12

7 Page 10, line 16, leave out subsection (1) and insert—

“(1) This section applies to an application for an overseas production order if there are reasonable grounds for believing that the electronic data specified or described in the application consists of or includes journalistic data.”

8 Page 10, line 23, at end insert—

“(2A) Where this section applies, notice of the application must be served on—
(a) the person against whom the overseas production order is sought, and
(b) if different, the person by whom, or on whose behalf, the journalistic data is stored.

(2B) But a judge may direct that notice of an application need not be served on a person falling within subsection (2A)(b) if the judge is satisfied that—
(a) serving notice on the person would prejudice the investigation of an indictable offence or a terrorist investigation, or
(b) it is not reasonably practicable to establish the person’s identity or to make contact with the person so as to enable service to be effected.”

9 Page 10, line 27, leave out subsection (4)

10 Page 10, line 39, at end insert—

“(6) In determining for the purposes of subsection (5) whether or not a purpose is a criminal purpose, crime is to be taken to mean conduct which—
(a) constitutes one or more criminal offences under the law of a part of the United Kingdom, or
(b) is, or corresponds to, conduct which, if it all took place in a particular part of the United Kingdom, would constitute one or more criminal offences under the law of that part of the United Kingdom.”

11 Page 10, line 39, at end insert—

“(7) Subsections (8) and (9) of section 4 apply for the purposes of subsection (2B) of this section as they apply for the purposes of subsection (3)(a) of that section.

(8) In this section, “terrorist investigation” has the same meaning as in the Terrorism Act 2000 (see section 32 of that Act).”

Clause 15

12 Page 13, line 12, leave out “section 4(3)(a)” and insert “sections 4(3)(a) and 12(2B)(a)”

After Clause 15

13 Insert the following new Clause—

“Designation of international agreements for purposes of section 52 of Investigatory Powers Act 2016

- (1) Section 52 of the Investigatory Powers Act 2016 (interception of communications in accordance with overseas requests) is amended as follows.
- (2) In subsection (3), at the end insert “(see further subsections (6) and (7))”.
- (3) After subsection (5) insert—
 - “(6) Subsection (7) applies where an international agreement provides for requests for the interception of a communication to be made by the competent authorities of a country or territory, or of more than one country or territory, in which a person found guilty of a criminal offence may be sentenced to death for the offence under the general criminal law of the country or territory concerned. Such an offence is referred to in subsection (7) as a “death penalty offence”.
 - (7) Where this subsection applies, the Secretary of State may not designate the agreement as a relevant international agreement unless the Secretary of State has sought, in respect of each country or territory referred to in subsection (6), a written assurance, or written assurances, relating to the non-use of information obtained by virtue of the agreement in connection with proceedings for a death penalty offence in the country or territory.””

Clause 17

14 Page 14, line 20, at end insert—

““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”

In the Title

15 Line 1, at end insert “and about the designation of international agreements for the purposes of section 52 of the Investigatory Powers Act 2016”

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31 January 2019

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS