

Investigatory Powers (Amendment) Bill [HL]

AMENDMENTS

TO BE MOVED

IN COMMITTEE OF THE WHOLE HOUSE

Clause 2

LORD WEST OF SPITHEAD

Clause 2, page 11, line 5, after “State” insert “, the Intelligence and Security Committee of Parliament, and the Investigatory Powers Commissioner,”

Member's explanatory statement

This amendment would ensure that the annual report provided to the Secretary of State, regarding bulk personal datasets authorised under Part 7A to be retained, or retained and examined, by the intelligence service during the period to which the report relates, is also provided to the Intelligence and Security Committee of Parliament and the Investigatory Powers Commissioner, to provide enhanced oversight of the new regime.

LORD WEST OF SPITHEAD

Clause 2, page 11, line 14, after “the Secretary of State” insert “, the Intelligence and Security Committee of Parliament, and the Investigatory Powers Commissioner”

Member's explanatory statement

This amendment would ensure that the annual report provided to the Secretary of State, regarding bulk personal datasets authorised under Part 7A to be retained, or retained and examined, by the intelligence service during the period to which the report relates, is also provided to the Intelligence and Security Committee of Parliament and the Investigatory Powers Commissioner, to provide enhanced oversight of the new regime.

Clause 14

LORD WEST OF SPITHEAD

Clause 14, page 32, line 35, leave out paragraph (b)

Member's explanatory statement

This is consequential to my other amendment to Clause 14, page 33, leave out lines 17 to 38.

LORD WEST OF SPITHEAD

Clause 14, page 33, line 10, leave out “or (c)”

Member's explanatory statement

This probing amendment would limit the purposes for which the new, broader target discovery power (Condition D1) could be used to obtain Internet Connection Records. The amendment would mean that the power could only be used “in the interests of national security” or “for the purpose of preventing or detecting serious crime”, and would prevent the Intelligence Agencies from using the new power for the purpose of “the economic well-being of the United Kingdom so far as those interests are also relevant to the interests of national security”.

LORD FOX

Clause 14, page 33, leave out lines 14 to 16

Member's explanatory statement

This amendment restricts the changes relating to internet connection records in Clause 14 to use by the intelligence services only.

LORD WEST OF SPITHEAD

Clause 14, page 33, leave out lines 17 to 38

Member's explanatory statement

This probing amendment removes the ability of the Agencies to internally authorise the obtaining of Internet Connection Records to identify which persons or apparatuses are using one or more specified internet services. The Agencies would therefore be required in all cases to seek the approval of the Investigatory Powers Commissioner to grant the authorisation for an application under new Condition D1.

LORD FOX

Clause 14, page 33, leave out lines 34 to 38

Member's explanatory statement

This amendment restricts the changes relating to internet connection records in Clause 14 to use by the intelligence services only.

LORD WEST OF SPITHEAD

Clause 14, page 33, line 39, leave out “and (5B)(b)”

Member's explanatory statement

This amendment is consequential to my other amendment to Clause 14, page 33, leave out lines 17 to 38.

Clause 20

LORD FOX

Clause 20, page 39, line 11, at end insert “, subject to the condition in subsection (1A).

- (1A) The condition in this subsection is that the decision to give the notice has been approved by a Judicial Commissioner.
- (1B) A notice under subsection (1) expires at the end of the period of 14 days from the day on which the notice was first given in writing to the relevant operator.
- (1C) The Secretary of State may renew a notice by virtue of subsections (1) and (1A) if the Secretary of State considers that the provisions of subsection (5) continue to apply.”

Member's explanatory statement

This amendment requires the decision by the Secretary of State to give a notice requiring operators to notify them of service of system changes is approved by a Judicial Commissioner. It also provides for the expiration of such a notice after 14 days, unless the notice is renewed.

Clause 21

LORD WEST OF SPITHEAD

Clause 21, page 41, line 29, leave out “is unavailable to decide whether to give approval under subsection (2)” and insert with “is unable to decide whether to give approval under subsection (2), due to incapacity or inability to access secure communications”.

Member's explanatory statement

This amendment would specify that the only exceptional circumstances in which the Prime Minister would be permitted the use of a designate is when he or she is unable to make a decision due to incapacity (ill-health) or lack of access to secure communications.

LORD WEST OF SPITHEAD

Clause 21, page 41, leave out lines 34 and 35 and insert –

- “(2C) The Prime Minister may designate up to two individuals under this section.
- (2CA) The Prime Minister may designate an individual under this section only if the individual holds the office of Secretary of State and is required in their routine duties to issue warrants under section 19 or section 102.”

Member's explanatory statement

This amendment would permit the Prime Minister to nominate up to two Secretaries of State to act for the Prime Minister if he or she is unable to decide whether to give approval under subsection (2A). The amendment also specifies that those nominated Secretaries of State must already have responsibility for the issuing of warrants under sections 19 or 102 of the Investigatory Powers

Act 2016 (which governs warrantry for Interception and Examination of Communications, and Equipment Interference).

LORD WEST OF SPITHEAD

Clause 21, page 41, line 35, at end insert –

“(2CA) The Prime Minister must review the individual’s conclusions, as soon as they are able to do so.”

Member's explanatory statement

This amendment would specify that the Prime Minister must review the conclusions and decision of the designated Secretary of State, as soon as is reasonably practicable once they are no longer incapacitated or without access to secure communications.

Clause 22

LORD WEST OF SPITHEAD

Clause 22, page 42, line 23, leave out from “Minister” to end of line 24 and insert “is unable to decide whether to give approval under subsection (3) or (as the case may be) (6), due to incapacity or inability to access secure communications”.

Member's explanatory statement

This amendment would specify that the only exceptional circumstances in which the Prime Minister would be permitted the use of a designate is when he or she is unable to make a decision due to incapacity (ill-health) or lack of access to secure communications.

LORD WEST OF SPITHEAD

Clause 22, page 42, leave out lines 28 and 29 and insert –

“(7C) The Prime Minister may designate up to two individuals under this section.

(7D) The Prime Minister may designate an individual under this section only if the individual holds the office of Secretary of State and is required in their routine duties to issue warrants under section 19 or section 102.”

Member's explanatory statement

This amendment would permit the Prime Minister to nominate up to two Secretaries of State to act for the Prime Minister if he or she is unable to decide whether to give approval under subsections (3) or (6). The amendment also specifies that those nominated Secretaries of State must already have responsibility for the issuing of warrants under sections 19 or 102 of the Investigatory Powers Act 2016 (which governs warrantry for Interception and Examination of Communications, and Equipment Interference).

LORD WEST OF SPITHEAD

Clause 22, page 42, line 29, at end insert –

“(7CA) The Prime Minister must review the individual’s conclusions, as soon as they are able to do so.”

Member's explanatory statement

This amendment would specify that the Prime Minister must review the conclusions and decision of the designated Secretary of State, as soon as is reasonably practicable once they are no longer incapacitated or without access to secure communications.

Investigatory Powers (Amendment) Bill [HL]

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

5 December 2023

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS