

Data Protection and Digital Information Bill

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

Clause 2

LORD CLEMENT-JONES

Clause 2, page 4, line 8, leave out from “study” to end of line 9

Member's explanatory statement

This amendment would ensure all uses under this Clause are in the public interest, however they may be described.

Clause 3

LORD CLEMENT-JONES

Clause 3, page 5, line 3, at end insert –

- “(e) the data subject has been given the opportunity to express dissent or an objection, and has not so expressed,”

Member's explanatory statement

This amendment is to make clear that when the purpose limitations are changed, that does not reduce or weaken the obligations around dissent.

Clause 5

LORD CLEMENT-JONES

Clause 5, page 6, line 15, at end insert –

“(za) After point (a) insert –

“(aa) the data subject has given consent for his or her personal data to enter the public domain via a public body;

(ab) processing is carried out by a public body pursuant to a legal or statutory obligation or right, and the public body is entitled to make such data available to the public;”

Member's explanatory statement

This amendment would add to the list of GDPR Article 6(1) on the lawfulness of processing.

LORD CLEMENT-JONES

Clause 5, page 7, line 19, at end insert –

““internal administrative purposes”, in relation to special category data, means the conditions set out for lawful processing in paragraph 1 of Schedule 1 of the Data Protection Act 2018.”

Member's explanatory statement

This amendment clarifies that the processing of special category data in employment must follow established principles for reasonable processing, as defined by paragraph 1 of Schedule 1 of the Data Protection Act 2018.

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 5 stand part of the Bill.

Member's explanatory statement

This amendment would remove a Clause that is arguably unnecessary as the legitimate interests tests is flexible and practical and already allows processing for emergencies.

Clause 6

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 6 stand part of the Bill.

Member's explanatory statement

This is a probing amendment to seek clarity from the Government on the intention behind these changes.

Clause 7

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 7 stand part of the Bill.

Member's explanatory statement

This is a probing amendment to seek clarity from the Government on the intention behind these changes.

Clause 11

LORD CLEMENT-JONES

Clause 11, page 23, line 10, at end insert –

“(ia) after point (a), insert –

“(aa) the data is from the Open Electoral Register;”

LORD CLEMENT-JONES

Clause 11, page 23, line 16, after “effort” insert “in particular where providing the information is not warranted by the impact on the individuals”

Member's explanatory statement

This amendment would change GDPR Article 14.

LORD CLEMENT-JONES

Clause 11, page 23, line 24, after “things,” insert “the effort and cost of compliance,”

Member's explanatory statement

This amendment adds to the list of what might constitute a disproportionate effort.

LORD CLEMENT-JONES

Clause 11, page 23, line 24, after “subjects,” insert “the damage and distress to the data subjects,”

Member's explanatory statement

This amendment adds to the list of what might constitute a disproportionate effort.

LORD CLEMENT-JONES

Clause 11, page 23, line 26, at end insert “and whether the information has been collected and made publicly available by a public body.”

Member's explanatory statement

This amendment adds to the list of what might constitute a disproportionate effort.

LORD CLEMENT-JONES

Clause 11, page 23, line 30, at end insert –

“8. An appropriate safeguard might be a risk assessment, including limiting the extent and purpose of the processing for which the data might be used.”

Member's explanatory statement

This amendment would change GDPR Article 14.

Clause 12

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 12 stand part of the Bill.

Member's explanatory statement

This amendment would prevent the weakening of the right of subject access and prevent confusion for organisations about what constitutes a reasonable and proportionate search in the particular circumstances.

Clause 17

LORD CLEMENT-JONES

Clause 17, page 32, line 38, at the end insert “or where the controller or processor has designated a data protection officer under Article 37 of Regulation (EU) 2019/679 (protection of natural persons with regard to the processing of personal data and on the free movement of such data) and that data protection officer is responsible for processing under this Regulation”

Member's explanatory statement

This amendment probes whether the roles of Senior Responsible Individual (“SRI”) in this Bill and data protection officer (“DPO”) under the EU GDPR are compatible.

Clause 18

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 18 stand part of the Bill

Member's explanatory statement

This amendment would prevent organisations being less likely to be compliant with the main obligations in the UK GDPR.

Clause 19

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 19 stand part of the Bill.

Member's explanatory statement

This amendment keeps the current requirement on police in the Data Protection Act 2018 to justify why they have accessed an individual's personal data.

Schedule 5

LORD CLEMENT-JONES

Schedule 5, page 206, leave out line 26 to end of line 2 on page 207 and insert –

- “(a) the rule of law, respect for human rights and fundamental freedoms, relevant legislation, both general and sectoral, including concerning public security, defence, national security and criminal law and the access of public authorities to personal data, as well as the implementation of such legislation, data protection rules, professional rules and security measures, including rules for the onward transfer of personal data to another third country or international organisation which are complied with in that country or international organisation, case-law, as well as effective and enforceable data subject rights and effective administrative and judicial redress for the data subjects whose personal data are being transferred;
- (b) the existence and effective functioning of one or more independent supervisory authorities in the third country or to which an international organisation is subject, with responsibility for ensuring and enforcing compliance with the data protection rules, including adequate enforcement powers, for assisting and advising the data subjects in exercising their rights and for cooperation with the Commissioner; and
- (c) the international commitments the third country or international organisation concerned has entered into, or other obligations arising from legally binding conventions or instruments as well as from its participation in multilateral or regional systems, in particular in relation to the protection of personal data.”

Member's explanatory statement

This amendment changes the list that the Secretary of State must consider when deciding whether a third country provides an adequate level of protection for data subjects.

LORD CLEMENT-JONES

Schedule 5, page 207, line 2, at end insert –

- “(g) the views of the Information Commission on suitability of international transfer of data to the country or organisation.”

Member's explanatory statement

This amendment would require the Secretary of State to seek the views of the Information Commission on whether a country or organisation has met the data protection test for international data transfer.

LORD CLEMENT-JONES

Schedule 5, page 207, line 25, at end insert –

- “5. In relation to special category data, the Information Commission must assess whether the data protection test is met for data transfer to a third country or international organisation.”

Member's explanatory statement

This amendment would require the Information Commission to assess suitability for international transfer of special category data to a third country or international organisation.

LORD CLEMENT-JONES

Schedule 5, page 207, line 30, leave out “ongoing” and insert “annual”

Member's explanatory statement

This amendment mandates that a country's suitability for international transfer of data is assessed on an annual basis.

LORD CLEMENT-JONES

Schedule 5, page 210, leave out lines 21 to 39

Member's explanatory statement

This amendment would remove the broad regulation-making power to designate new transfer mechanisms for personal data being sent to a third country in the absence of adequacy regulations.

Schedule 6

LORD CLEMENT-JONES

Schedule 6, page 215, line 36, at end insert –

- “(g) the views of the Information Commission on suitability of international transfer of data to the country or organisation.”

Member's explanatory statement

This amendment would require the Secretary of State to seek the views of the Information Commission on whether a country or organisation has met the data protection test for international data transfers in relation to law enforcement processing.

Clause 26

LORD CLEMENT-JONES

Clause 26, page 44, line 30, at end insert –

“where the data subject has been given the opportunity to express dissent.”

Member's explanatory statement

This amendment is to make clear that when the purpose limitations are changed, a choice must be offered to data subjects.

LORD CLEMENT-JONES

Clause 26, page 45, line 16, at end insert –

- “4. Processing of personal data for RAS purposes must be carried out in a manner which does not permit the identification of a living individual.”

Member's explanatory statement

This amendment is to ensure that processing of personal data for research, archives and statistics (RAS) purposes must be carried in a manner which does not permit the identification of a living individual.

LORD CLEMENT-JONES

Clause 26, page 46, line 24, at end insert –

- “6. The requirement is not satisfied unless applicable dissents by the data subject are respected.”

Member's explanatory statement

This amendment is to ensure existing patient dissents are respected and cannot be ignored.

After Clause 51

LORD CLEMENT-JONES

After Clause 51, insert the following new Clause –

“UK GDPR data compliance

In Article 1 of UK GDPR, after paragraph 2, insert –

- “3. A controller or processor which complies with Commission Regulation (EU) 2019/679 (protection of natural persons with regard to the processing of personal data and on the free movement of such data) will be deemed to comply with this Regulation.””

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