

Data Protection and Digital Information Bill

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

Clause 1

LORD CLEMENT-JONES

Clause 1, page 3, line 33, at end insert –

- “(5) Notwithstanding anything elsewhere in this Act –
- (a) personal data that is then pseudonymised in part, but in which other indirect identifiers remain unaltered, remains personal data under the 2018 Act;
 - (b) if data is claimed not to be personal data for the purpose of some processing, and is later determined by the Commissioner to be personal data, then it was personal data at all points in that processing and all penalties for unlawful processing of personal data must be available;
 - (c) sections 191, 192, 193 and 194 of the Data Protection Act 2018 are repealed.”

Member's explanatory statement

This amendment would ensure that personal data remains personal data, even if some may claim it is not, and to repeal the unused Framework for Data Processing by Government.

Clause 14

LORD CLEMENT-JONES

Clause 14, page 27, leave out lines 3 to 9 and insert –

- “1. Where a significant decision, taken by or on behalf of a controller which is a public authority in relation to a data subject, is –
- (a) based entirely or partly on personal data, and
 - (b) meaningfully involves automated processing,
- the controller must ensure that safeguards for the data subject’s rights, freedoms and legitimate interests are in place which comply with paragraph 2 and any regulations under Article 22D(4).
- 1A. Where a significant decision, taken by or on behalf of a controller which is not a public authority in relation to a data subject, is –
- (a) based entirely or partly on personal data, and

- (b) based solely on automated processing,
the controller must ensure that safeguards for the data subject’s rights, freedoms and legitimate interests are in place which comply with paragraph 2 and any regulations under Article 22D(4).”

Member's explanatory statement

This amendment, along with others in the name of Lord Clement-Jones, introduces a new definition of decisions which “meaningfully involve” automated processing. It creates new additional obligations on public authorities to ensure safeguards for data subjects’ rights and freedoms, not only whenever a significant decision is based “solely” on automated processing, but also whenever automated processing was meaningfully used.

After Clause 14

LORD CLEMENT-JONES

After Clause 14, insert the following new Clause –

“Transparency in public use of algorithmic tools

- (1) Subject to subsection (2), the Secretary of State must, by regulations, introduce a compulsory transparency reporting requirement on the use of algorithms in decision-making by –
 - (a) public authorities,
 - (b) government departments, and
 - (c) government contractors using public data.
- (2) The Secretary of State is not required to introduce regulations under subsection (1) while the following conditions are met –
 - (a) the Secretary of State does not consider it appropriate to do so, and
 - (b) within the preceding six months, the Secretary of State has, in either House of Parliament, made a statement explaining their reasons for not considering it appropriate to do so, including –
 - (i) what efforts the Secretary of State has taken to make appropriate regulations which would satisfy the duty in subsection (1) since their previous statement,
 - (ii) when the Secretary of State expects to be able to introduce regulations under subsection (1), and
 - (iii) the results of any pilot schemes undertaken since their previous statement.
- (3) Until regulations under subsection (1) are introduced, the Secretary of State must keep the consideration in subsection (2)(a) under continual review.
- (4) Regulations under subsection (1) must require the publication of the information required by the UK Algorithmic Transparency Recording Standard, the standard published by the Central Digital and Data Office and Centre for Data Ethics and Innovation as part of the Government’s National Data Strategy.

- (5) Regulations under subsection (1) may provide for exemptions to the requirement for publication where necessary –
 - (a) to avoid obstructing an official or legal inquiry, investigation or procedure,
 - (b) to avoid prejudicing the prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties,
 - (c) to protect public security, or
 - (d) to safeguard national security.
- (6) Regulations under subsection (1) are subject to the affirmative resolution procedure.”

Member's explanatory statement

This amendment requires the Secretary of State to introduce a compulsory transparency reporting requirement (such as the Algorithmic Transparency Recording Standard (ATRS)) provided that they consider it appropriate to do so. If the Secretary of State does not consider it appropriate, then they must provide reasons to Parliament at six-month intervals (which is the current frequency with which the ATRS is being reviewed).

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