

Data Protection and Digital Information Bill

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

Clause 6

VISCOUNT CAMROSE

Clause 6, page 8, leave out lines 20 to 22 and insert –

- “(c) the nature of the processing, including whether it is processing described in Article 9(1) (processing of special categories of personal data) or Article 10(1) (processing of personal data relating to criminal convictions etc);”

Member's explanatory statement

This technical amendment changes new Article 8A(2)(c) of the UK GDPR so that it refers to processing rather than personal data, reflecting the terms of Articles 9(1) and 10(1).

Clause 14

VISCOUNT CAMROSE

Clause 14, page 26, line 22, leave out from “on” to “may” in line 23 and insert “processing described in Article 9(1) (processing of special categories of personal data)”

Member's explanatory statement

This technical amendment adjusts the wording of new Article 22B(1) of the UK GDPR to reflect the terms of Article 9(1).

VISCOUNT CAMROSE

Clause 14, page 28, line 17, leave out “using sensitive personal data” and insert “based on sensitive processing”

Member's explanatory statement

This amendment of a heading is consequential on the amendment in my name to clause 14, page 28, line 19.

VISCOUNT CAMROSE

Clause 14, page 28, line 19, leave out “sensitive personal data” and insert “sensitive processing (as defined in section 35(8))”

Member's explanatory statement

This technical amendment adjusts the wording of new section 50B(1) of the Data Protection Act 2018 to refer to “sensitive processing”, rather than “sensitive personal data”, to reflect the terms of section 35(8) of that Act.

Clause 25

VISCOUNT CAMROSE

Clause 25, page 44, line 18, leave out subsection (3) and insert –

- “(3) In Schedule 7 –
- (a) Part 1 contains minor and consequential amendments, and
 - (b) Part 2 contains transitional provision.”

Member's explanatory statement

This amendment is consequential on the amendment in my name inserting amendments of section 119A of the Data Protection Act 2018 into Schedule 7 to the Bill.

Schedule 6

VISCOUNT CAMROSE

Schedule 6, page 212, line 27, leave out “In section 72 (overview and interpretation),” and insert –

- “(1) Section 72 (overview and interpretation) is amended as follows.
- (2) In subsection (1)(b) –
- (a) for “the special conditions that apply” substitute “additional conditions that apply in certain cases”, and
 - (b) after “organisation” insert “(see section 73(4)(b))”.
- (3)”

Member's explanatory statement

This amendment is consequential on the amendment in my name inserting amendments of section 77 of the Data Protection Act 2018 into Schedule 6 to the Bill.

VISCOUNT CAMROSE

Schedule 6, page 213, line 20, at end insert –

“(1A) Before subsection (1) insert –

“(A1) This section applies in relation to a transfer of personal data to a third country or international organisation for a law enforcement purpose.””

Member's explanatory statement

See the explanatory statement to the amendment in my name to Schedule 6, page 213, line 22.

VISCOUNT CAMROSE

Schedule 6, page 213, line 22, leave out paragraphs (a) and (b) and insert –

“(a) for the words before paragraph (a) substitute “The controller in relation to the transfer must secure that the transfer takes place only if –”;

Member's explanatory statement

This amendment, and the amendment in my name to Schedule 6, page 213, line 20, make changes to reflect the fact that the duty to comply with the general principles in section 73 of the Data Protection Act 2018 falls on the controller by or on whose behalf the transfer is made.

VISCOUNT CAMROSE

Schedule 6, page 213, line 37, at end insert –

“(3A) In subsection (4) –

(a) after paragraph (a) (but before the final “or”) insert –

“(aa) the intended recipient is a person in a third country who –

- (i) is not a person described in paragraph (a), but
- (ii) is a processor whose processing, on behalf of the controller, of the personal data transferred is governed by, or authorised in accordance with, a contract with the controller that complies with section 59,” and

(b) in paragraph (b)(i), for “other than a relevant authority” substitute “who is not a person described in paragraph (a) or (aa)”.”

Member's explanatory statement

This amendment inserts a further means of satisfying Condition 3 in section 73 of the Data Protection Act 2018 (conditions for international transfers of personal data by competent authorities for law enforcement purposes). Condition 3 relates to the intended recipient of the personal data.

VISCOUNT CAMROSE

Schedule 6, page 217, line 27, after “substitute” insert “section 73(4)(a) or (b) and”

Member's explanatory statement

This amendment provides that the controller's duty to inform the Information Commissioner about international transfers of personal data made subject to appropriate safeguards does not apply where a transfer is made to a processor in reliance on paragraph (aa) of section 73(4) of the Data Protection Act 2018 (inserted by an amendment in my name).

VISCOUNT CAMROSE

Schedule 6, page 217, line 28, after “substitute” insert “section 73(4)(a) or (b) and”

Member's explanatory statement

This amendment provides that the controller's duty to document transfers that take place subject to appropriate safeguards does not apply where a transfer is made to a processor in reliance on paragraph (aa) of section 73(4) of the Data Protection Act 2018 (inserted by an amendment in my name).

VISCOUNT CAMROSE

Schedule 6, page 219, line 5, at end insert –

“7A For the italic heading before section 77 substitute “Additional conditions”.

7B (1) Section 77 (conditions for transfers of personal data to persons other than relevant authorities) is amended as follows.

(2) For the heading substitute “Additional conditions for transfers in reliance on section 73(4)(b)”.

(3) In subsection (6), for “other than a relevant authority” substitute “in reliance on section 73(4)(b)”.

(4) In subsection (7)(a), for “other than a relevant authority” substitute “that takes place in reliance on section 73(4)(b)”.

Member's explanatory statement

These amendments provide that section 77 of the Data Protection Act 2018 (conditions for certain transfers of personal data to overseas recipients other than relevant authorities) does not apply to transfers to overseas processors made in reliance on paragraph (aa) of section 73(4) of that Act (inserted by an amendment in my name).

VISCOUNT CAMROSE

Schedule 6, page 219, line 7, at end insert –

“(1A) Before subsection (1) insert –

“(A1) Subsections (1) to (6) apply where a transfer to which section 73 applies takes place other than in reliance on section 73(4)(aa).”

Member's explanatory statement

This amendment provides that a condition described in subsections (1) to (6) of section 78 of the Data Protection Act 2018 (subsequent transfers) does not need to be imposed where a transfer is made to an overseas processor in reliance on paragraph (aa) of section 73(4) of that Act (inserted by an amendment in my name).

VISCOUNT CAMROSE

Schedule 6, page 219, line 8, at end insert –

“(za) omit “Where personal data is transferred in accordance with section 73,””

Member's explanatory statement

This amendment of section 78(1) of the Data Protection Act 2018 (subsequent transfers) is consequential on the amendment in my name inserting subsection (A1) of that section.

VISCOUNT CAMROSE

Schedule 6, page 220, line 13, at end insert –

“(9) At the end insert –

“(7) Where a transfer takes place in reliance on section 73(4)(aa), the transferring controller must make it a condition of the transfer that the data is only to be further transferred to a third country or international organisation where –

- (a) the terms of any relevant contract entered into, or authorisation given, by the transferring controller in accordance with section 59 are complied with, and
- (b) the further transfer satisfies the requirements in section 73(1).”

Member's explanatory statement

This amendment describes a condition that must be imposed where a transfer is made to an overseas processor in reliance on paragraph (aa) of section 73(4) of that Act (inserted by an amendment in my name).

Schedule 7

VISCOUNT CAMROSE

Schedule 7, page 221, line 5, at end insert –

- “6A In Article 46(2)(d) (transfers subject to appropriate safeguards: standard data protection clauses), after “Commissioner” insert “for the purposes of this Article”.”

Member's explanatory statement

This amendment is consequential on the amendment in my name inserting amendments of section 119A of the Data Protection Act 2018 into Schedule 7 to the Bill.

VISCOUNT CAMROSE

Schedule 7, page 221, line 30, leave out paragraph 17 and insert –

- “16A In section 75 (transfers on the basis of appropriate safeguards), after subsection (7) (inserted by Schedule 6 to this Act) insert –

“(8) For provision about standard data protection clauses which the Commissioner considers are capable of securing that the data protection test in this section is met, see section 119A.”

- 16B In section 78A (law enforcement processing: national security exemption) (inserted by section 28 of this Act), in subsection (2)(e), after sub-paragraph (i) insert –

“(ia) section 119A (standard clauses for transfers to third countries);”.

- 17 (1) Section 119A (power of Information Commissioner to specify standard clauses for transfers to third countries etc providing appropriate safeguards) is amended as follows.

(2) In subsection (1), for the words from “provide” to the end substitute “are capable of securing that the data protection test set out in Article 46 of the UK GDPR or section 75 of this Act (or both) is met in relation to transfers of personal data”.

(3) In subsection (3), after paragraph (a) insert –

“(aa) may make provision generally or in relation to types of transfer described in the document,”.

Member's explanatory statement

This amendment enables the Information Commissioner to exercise the power under section 119A of the Data Protection Act 2018 (power to issue standard data protection clauses) to issue clauses for use in making transfers of personal data in reliance on section 75 of that Act (transfers subject to appropriate safeguards). It also makes consequential changes.

VISCOUNT CAMROSE

Schedule 7, page 226, leave out lines 37 to 39 and insert “the requirement in section 75(1)(a) of the 2018 Act (binding legal instrument containing appropriate safeguards) would have been satisfied by virtue of that instrument.”

Member's explanatory statement

This amendment enables transitional provision in paragraph 30 of Schedule 7 to the Bill to be relied on in connection with transfers of personal data described in paragraph (aa) of section 73(4) of the Data Protection Act 2018 (inserted by an amendment in my name).

Clause 29

VISCOUNT CAMROSE

Clause 29, page 52, line 33, leave out “with the day on which it” and insert “when the notice”

Member's explanatory statement

This amendment adjusts the language of new section 82B(2) of the Data Protection Act 2018 to ensure that Article 3 of Regulation No 1182/71 (rules of interpretation regarding periods of time etc) will apply to it.

Clause 32

VISCOUNT CAMROSE

Clause 32, page 58, line 24, leave out “with the day of the designation” and insert “when the Secretary of State designates the statement”

Member's explanatory statement

This amendment adjusts the language of new section 120F(4) of the Data Protection Act 2018 to ensure that Article 3 of Regulation No 1182/71 (rules of interpretation regarding periods of time etc) will apply to it.

VISCOUNT CAMROSE

Clause 32, page 61, line 4, at end insert –

“(3A) In section 205(2) (references to periods of time), after paragraph (za) insert –
“(zb) section 120H(3) and (4);”.”

Member's explanatory statement

This amendment provides that Article 3 of Regulation No 1182/71 (rules of interpretation regarding periods of time etc) does not apply to new section 120H(3) and (4) of the Data Protection Act 2018.

Clause 42

VISCOUNT CAMROSE

Clause 42, page 76, line 14, leave out “with the day” and insert “when”

Member's explanatory statement

This amendment adjusts the language of new paragraph 4(A2) of Schedule 16 to the Data Protection Act 2018 to ensure that Article 3 of Regulation No 1182/71 (rules of interpretation regarding periods of time etc) will apply to it.

Clause 44

VISCOUNT CAMROSE

Clause 44, page 78, line 17, leave out “with the day on which it” and insert “when the complaint”

Member's explanatory statement

This amendment adjusts the language of new section 164A(3) of the Data Protection Act 2018 to ensure that Article 3 of Regulation No 1182/71 (rules of interpretation regarding periods of time etc) will apply to it.

Clause 45

VISCOUNT CAMROSE

Clause 45, page 79, line 30, leave out “with the day” and insert “when”

Member's explanatory statement

This amendment adjusts the language of new section 165A(3) of the Data Protection Act 2018 to ensure that Article 3 of Regulation No 1182/71 (rules of interpretation regarding periods of time etc) will apply to it.

Clause 49

VISCOUNT CAMROSE

Clause 49, page 83, line 21, leave out “and (3)” and insert “to (3A)”

Member's explanatory statement

This amendment is consequential on the amendments in my name inserting additional subsections into this clause.

VISCOUNT CAMROSE

Clause 49, page 83, line 24, at end insert “: relevant enactments”

Member's explanatory statement

This amendment is consequential on the amendment in my name inserting section 183B of the Data Protection Act 2018.

VISCOUNT CAMROSE

Clause 49, page 84, line 7, leave out “49” and insert “49(2)”

Member's explanatory statement

This amendment changes a reference to the day on which clause 49 comes into force to a reference to the day on which subsection (2) of that clause comes into force.

VISCOUNT CAMROSE

Clause 49, page 84, line 19, at end insert –

“(2A) Before section 184 (and the italic heading before it) insert –

“183B Protection of prohibitions and restrictions etc on processing: other enactments

- (1) This section is about the relationship between –
 - (a) a pre-commencement enactment which imposes a duty, or confers a power, to process personal data, and
 - (b) a provision of the main data protection legislation containing a requirement relating to the processing of personal data.
- (2) The relationship is not changed by section 5(A1) of the European Union (Withdrawal) Act 2018 (removal of the principle of supremacy of EU law) (or the repeal of section 5(1) to (3) of that Act).
- (3) Where the provision described in subsection (1)(b) is a provision of, or made under, the UK GDPR, section 5(A2) of the European Union (Withdrawal) Act 2018 (assimilated direct legislation subject to domestic enactments) does not apply to the relationship.
- (4) Nothing is to be implied about a relationship described in subsection (1) merely due to the fact that express provision with similar effect to section 183A(1) (or applying that provision) is made in connection with one such relationship but not another.
- (5) In this section –
 - (a) “the main data protection legislation” and “requirement” have the same meaning as in section 183A, and
 - (b) “pre-commencement enactment” means an enactment so far as passed or made before the day on which section 49(2) of the Data Protection and Digital Information Act 2024 comes into force.
- (6) Section 183A(5) applies for the purposes of subsection (1)(a) of this section as it applies for the purposes of section 183A(1).”

Member's explanatory statement

This amendment provides that certain changes made to the European Union (Withdrawal) Act 2018 by the Retained EU Law (Revocation and Reform) Act 2023 do not alter the relationship between requirements in the data protection legislation and duties or powers to process personal data under other existing legislation.

VISCOUNT CAMROSE

Clause 49, page 84, line 27, leave out “falling within” and insert “listed in”

Member's explanatory statement

This amendment makes a minor change to new subsection (2A) of section 186 of the Data Protection Act 2018 for consistency with the wording of the existing subsection (1) of that section.

VISCOUNT CAMROSE

Clause 49, page 84, line 30, leave out “falling within subsection (2).” and insert “listed in subsection (2),

and see also section 186A.”

Member's explanatory statement

This amendment makes a minor change to new subsection (2A) of section 186 of the Data Protection Act 2018 for consistency with the wording of the existing subsection (1) of that section and inserts a cross-reference to new section 186A of that Act (inserted by an amendment of Clause 49 in my name).

VISCOUNT CAMROSE

Clause 49, page 84, line 34, at end insert –

“(3A) After section 186 insert –

“186A Protection of data subject’s rights: further provision

- (1) This section is about the relationship between –
 - (a) a pre-commencement enactment which prohibits or restricts the disclosure of information or authorises the withholding of information, and
 - (b) a provision of the UK GDPR or this Act listed in section 186(2).
- (2) The relationship is not changed by section 5(A1) of the European Union (Withdrawal) Act 2018 (removal of the principle of supremacy of EU law) (or the repeal of section 5(1) to (3) of that Act).
- (3) Subsection (1) of section 186 does not apply to the relationship so far as there is a contrary intention, whether express or implied (taking account of, among other things, subsection (2) of this section).

- (4) Nothing is to be implied about a relationship described in subsection (1) merely due to the fact that express provision stating that section 186(1) applies (or with similar effect) is made in connection with one such relationship but not another.
- (5) In this section, “pre-commencement enactment” means an enactment passed or made before the day on which section 49(3) of the Data Protection and Digital Information Act 2024 comes into force.”

Member's explanatory statement

This amendment provides that certain changes made to the European Union (Withdrawal) Act 2018 by the Retained EU Law (Revocation and Reform) Act 2023 do not alter the relationship between certain obligations and rights under the data protection legislation and restrictions on the disclosure of information under other existing legislation.

VISCOUNT CAMROSE

Clause 49, page 84, line 40, at end insert “, and

- (c) at the end insert “(and see also section 183B(3) of that Act)”.

Member's explanatory statement

This amendment inserts a cross-reference to section 183B(3) of the Data Protection Act 2018 (inserted by an amendment of Clause 49 in my name) into section 5(A3) of the European Union (Withdrawal) Act 2018 (exceptions from provision about the relationship between assimilated direct legislation and domestic enactments). Section 183B(3) creates such an exception.

VISCOUNT CAMROSE

Clause 49, page 84, line 40, at end insert –

- “(5) Subsections (2A), (3A) and (4)(c) are to be treated as having come into force on 1 January 2024.”

Member's explanatory statement

This amendment provides for provision about the relationship between the data protection legislation and existing legislation – in particular, provision about the effect of changes made by the Retained EU Law (Revocation and Reform) Act 2023 – to be treated as having come into force when those changes came into force.

Schedule 9

VISCOUNT CAMROSE

Schedule 9, page 231, line 35, at end insert –

“2A After Article 4 insert –

“Article 4A

Periods of time

1. References in this Regulation to a period expressed in hours, days, weeks, months or years are to be interpreted in accordance with Article 3 of the Periods of Time Regulation, except in –
 - (a) Article 91A(8) and (9);
 - (b) paragraphs 14, 15 and 16 of Annex 1.
2. In this Article, “the Periods of Time Regulation” means Regulation (EEC, Euratom) No. 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits.””

Member's explanatory statement

This amendment provides for the rules of interpretation in Article 3 of Regulation No 1182/71 (rules of interpretation regarding periods of time etc) to apply to the UK GDPR, subject to some listed exceptions.

Clause 96

VISCOUNT CAMROSE

Clause 96, page 123, line 42, after “holders” insert “, authorised persons or third party recipients”

Member's explanatory statement

This amendment provides that the restriction in clause 96(3) on the exercise of the regulation-making power in clause 96(1) (power to impose a levy) applies in connection with regulations imposing a levy on authorised persons or third party recipients as well as regulations imposing a levy on data holders.

Clause 103

VISCOUNT CAMROSE

Clause 103, page 131, line 7, at end insert –

“(9A) The requirement in subsection (9) may be satisfied by consultation undertaken before the coming into force of this section.”

Member's explanatory statement

This amendment makes clear that the requirement under clause 103(9) to consult before making regulations described in clause 103(7) may be satisfied by consultation carried out before clause 103 comes into force.

After Clause 108

VISCOUNT CAMROSE

After Clause 108, insert the following new Clause –

“Interpretation of the PEC Regulations

In regulation 2 of the PEC Regulations (interpretation) –

- (a) in paragraph (4) omit “, without prejudice to paragraph (3),” and
- (b) at the end insert –

“(5) References in these regulations to a period expressed in hours, days, weeks, months or years are to be interpreted in accordance with Article 3 of the Periods of Time Regulation, except that Article 3(4) of that Regulation does not apply to the interpretation of a reference to a period in regulation 16A.

(6) In paragraph (5), “the Periods of Time Regulation” means Regulation (EEC, Euratom) No. 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits.””

Member's explanatory statement

This amendment provides for the rules of interpretation in Article 3 of Regulation No 1182/71 (rules of interpretation regarding periods of time etc) to apply to the Privacy and Electronic Communications (EC Directive) Regulations 2003, with an exception for regulation 16A. It also removes a superfluous cross-reference.

Clause 112

VISCOUNT CAMROSE

Clause 112, page 139, line 13, at end insert –

- “(1A) In regulation 5C of the PEC Regulations (personal data breach: enforcement) –
- (a) in paragraph (4)(f), for “from the service of the notice of intent” substitute “beginning when the notice of intent is served”, and
 - (b) in paragraph (5), for “21 days of receipt of the notice of intent” substitute “the period of 21 days beginning when the notice of intent is received”.”

Member's explanatory statement

This amendment adjusts the language of regulation 5C of the Privacy and Electronic Communications (EC Directive) Regulations 2003 so it is consistent with language used in new provisions inserted into those Regulations by clause 116 of the Bill.

VISCOUNT CAMROSE

Clause 112, page 139, line 24, at end insert –

“(iii) after the third subparagraph insert –

“This paragraph is to be interpreted in accordance with Article 3 of Regulation (EEC, Euratom) No. 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits.”, and”

Member's explanatory statement

This amendment provides for the rules of interpretation in Article 3 of Regulation No 1182/71 (rules of interpretation regarding periods of time etc) to apply to Article 2(2) of Regulation (EU) No 611/2013 on the measures applicable to the notification of personal data breaches.

After Clause 112

VISCOUNT CAMROSE

After Clause 112, insert the following new Clause –

“Emergency alerts: interpretation of time periods

In regulation 16A of the PEC Regulations (emergency alerts), in paragraph (6), for the words from “7 days” to “paragraph (3)(b)” substitute “the period of 7 days beginning with the day on which the time period specified by the relevant public authority pursuant to paragraph (3)(b) expires”.”

Member's explanatory statement

This amendment adjusts a description of a period of time in regulation 16A(6) of the Privacy and Electronic Communications (EC Directive) Regulations 2003 to clarify that the day on which the time period specified under regulation 26A(3)(b) expires (which triggers the 7 day period mentioned in regulation 16A) is included in the 7 days.

Clause 116

VISCOUNT CAMROSE

Clause 116, page 145, line 14, leave out “with the day on which” and insert “when”

Member's explanatory statement

The amendment in my name to insert a new clause after clause 108 will apply the rules of interpretation in Article 3 of Regulation No 1182/71 to the Privacy and Electronic Communications (EC Directive) Regulations 2003. This amendment adjusts the language of new regulation 26A(3) of those Regulations to ensure that Article 3 is able to apply.

VISCOUNT CAMROSE

Clause 116, page 145, line 37, leave out “with the day” and insert “when”

Member's explanatory statement

The amendment in my name to insert a new clause after clause 108 will apply the rules of interpretation in Article 3 of Regulation No 1182/71 to the Privacy and Electronic Communications (EC Directive) Regulations 2003. This amendment adjusts the language of new regulation 26B(4) of the 2003 Regulations to ensure that Article 3 is able to apply.

VISCOUNT CAMROSE

Clause 116, page 145, line 40, leave out from “beginning” to end of line and insert “when the notice of intent is received”

Member's explanatory statement

This amendment adjusts the language of new regulation 26B(5) of the Privacy and Electronic Communications (EC Directive) Regulations 2003 to ensure that Article 3 of Regulation No 1182/71 is able to apply to it and also makes a small change to when the 21 day period starts.

Clause 120

VISCOUNT CAMROSE

Clause 120, page 151, line 25, leave out “124” and insert “(Time periods: the eIDAS Regulation and the EITSET Regulations)”

Member's explanatory statement

This amendment is consequential on the amendment in my name to insert a new clause after clause 124.

After Clause 124

VISCOUNT CAMROSE

After Clause 124, insert the following new Clause –

“Time periods: the eIDAS Regulation and the EITSET Regulations

- (1) In Chapter 1 of the eIDAS Regulation (general provisions), after Article 3 insert –

“Article 3A

Periods of time

References in this Regulation to a period expressed in hours, days, months or years are to be interpreted in accordance with Article 3 of Regulation (EEC, Euratom) No. 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits.”

- (2) The Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 (S.I. 2016/696) are amended as follows.

- (3) In regulation 2 (interpretation), at the end insert –
- “(3)References in these regulations to a period expressed in days or years are to be interpreted in accordance with Article 3 of Regulation (EEC, Euratom) No. 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits.”
- (4) In Schedule 1 (monetary penalties) –
- (a) in paragraph 4(f), for the words from “a period” to the end substitute “the period of 21 days beginning when the notice of intent is served”,
 - (b) in paragraph 5, for the words from “a period” to the end substitute “the period of 21 days beginning when the notice of intent is received”, and
 - (c) in paragraph 6, for the words from “a period” to the end substitute “the period of 21 days beginning when the notice of intent is served”.”

Member's explanatory statement

This amendment provides for the rules of interpretation in Article 3 of Regulation No 1182/71 (rules of interpretation regarding periods of time etc) to apply to Regulation (EU) No. 910/2014 on electronic identification and trust services and to the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016.

Clause 129

VISCOUNT CAMROSE

Clause 129, page 158, line 27, leave out “, or are due to conduct an investigation,”

Member's explanatory statement

This amendment makes a technical change to wording about investigations by a coroner or procurator fiscal. The omitted words are not required because there is no stage at which a coroner or procurator fiscal would be “due to” conduct an investigation into a death (as opposed to conducting an investigation into it).

VISCOUNT CAMROSE

Clause 129, page 158, leave out lines 30 and 31

Member's explanatory statement

This amendment concerns OFCOM’s power to issue a notice requiring an internet service provider to retain information about the use of the service by a child who has died, where a coroner or procurator fiscal is investigating the child’s death. The amendment has the effect that the power is no longer limited to cases of suspected child suicide.

Clause 138

VISCOUNT CAMROSE

Clause 138, page 172, line 14, leave out “Part 3” and insert “this Act”

Member's explanatory statement

This amendment is consequential on the amendment to this clause in my name moving provision about the initial upload of information into the National Underground Asset Register into a new section to be inserted into Part 3A of the New Roads and Street Works Act 1991 (inserted by this clause).

VISCOUNT CAMROSE

Clause 138, page 172, line 16, at end insert –

“106AA Initial upload of information into NUAR

- (1) Before the end of the initial upload period an undertaker having apparatus in a street must enter into NUAR –
 - (a) all information that is included in the undertaker’s records under section 79(1) on the archive upload date, and
 - (b) any other information of a prescribed description that is held by the undertaker on that date.
- (2) The duty under subsection (1) does not apply in such cases as may be prescribed.
- (3) Information must be entered into NUAR under subsection (1) in such form and manner as may be prescribed.
- (4) For the purposes of subsection (1) the Secretary of State must by regulations –
 - (a) specify a date as “the archive upload date”, and
 - (b) specify a period beginning with that date as the “initial upload period”.
- (5) Regulations under this section are subject to the negative procedure.”

Member's explanatory statement

This amendment moves provision about the initial upload of information into the National Underground Asset Register into a new section to be inserted into Part 3A of the New Roads and Street Works Act 1991 (inserted by this clause).

VISCOUNT CAMROSE

Clause 138, page 172, line 18, after “provision” insert “for or”

Member's explanatory statement

This amendment makes clear that regulations under section 106B(1) of the New Roads and Street Works Act 1991 (inserted by this clause) may make provision for, as well as provision in connection with, making information kept in the National Underground Asset Register available.

VISCOUNT CAMROSE

Clause 138, page 172, line 19, leave out from “available” to end of line 21

Member's explanatory statement

This amendment is consequential on the next amendment to this clause in my name.

VISCOUNT CAMROSE

Clause 138, page 173, line 2, at end insert –

- “(h) make provision for or in connection with the granting of licences by the Secretary of State in relation to any non-Crown IP rights that may exist in relation to information made available (including provision about the form of a licence and the terms and conditions of a licence);
- (i) make provision for information to be made available for free or for a fee;
- (j) make provision about the amounts of the fees, including provision for the amount of a fee to be an amount which is intended to exceed the cost of the things in respect of which the fee is charged;
- (k) make provision about how funds raised by means of fees must or may be used, including provision for funds to be paid to persons who are required, by a provision of this Act, to enter information into NUAR.”

Member's explanatory statement

This amendment moves provision about licensing and the charging of fees under regulations under section 106B of the New Roads and Street Works Act 1991 (inserted by this clause) into subsection (2) of that section; and makes it clear that those regulations will only provide for licensing in relation to non-Crown rights.

VISCOUNT CAMROSE

Clause 138, page 173, leave out lines 3 to 16

Member's explanatory statement

This amendment is consequential on the previous amendment to this clause in my name.

VISCOUNT CAMROSE

Clause 138, page 173, line 24, at end insert –

- “(6) In this section –
 - “database right” has the same meaning as in Part 3 of the Copyright and Rights in Databases Regulations 1997 (S.I. 1997/3032);
 - “non-Crown IP right” means any copyright, database right or other intellectual property right which is not owned by the Crown.”

Member's explanatory statement

This amendment provides for definitions and is consequential on the amendment to this clause in my name making clear that regulations under section 106B of the New Roads and Street Works Act 1991 (inserted by this clause) will only provide for licensing in relation to non-Crown rights.

Schedule 13

VISCOUNT CAMROSE

Schedule 13, page 271, leave out lines 22 and 23 and insert “the date specified in the warning notice in accordance with paragraph 2(2)(d).”

Member's explanatory statement

This amendment ensures that language used in paragraphs 2 and 3 of Schedule 5A to the New Roads and Street Works Act 1991 (inserted by this Schedule) is consistent.

Clause 139

VISCOUNT CAMROSE

Clause 139, page 178, line 19, leave out paragraph (f) and insert –

“(f) after subsection (3A) insert –

“(3B) Except in such cases as may be prescribed, where an undertaker records information as required by subsection (1) or (1B), or updates such information, the undertaker must, within a prescribed period, enter the recorded or updated information into NUAR.

(3C) Information must be entered into NUAR under subsection (3B) in such form and manner as may be prescribed.””

Member's explanatory statement

This amendment and the next amendment to this clause in my name are consequential on the amendment to clause 138 in my name moving provision about the initial upload of information into the National Underground Asset Register into a new section to be inserted into Part 3A of the New Roads and Street Works Act 1991 (inserted by clause 138).

VISCOUNT CAMROSE

Clause 139, page 178, line 39, leave out paragraph (h) and insert –

“(h) after subsection (6) insert –

“(7) For the meaning of “NUAR”, see section 106A.””

Member's explanatory statement

This amendment and the previous amendment to this clause in my name are consequential on the amendment to clause 138 in my name moving provision about the initial upload of information into the National Underground Asset Register into a new section to be inserted into Part 3A of the New Roads and Street Works Act 1991 (inserted by clause 138).

Clause 143

VISCOUNT CAMROSE

Clause 143, page 181, line 14, at end insert –

“(3A) In section 205(2) (references to periods of time) –

- (a) omit paragraph (l), and
- (b) after that paragraph insert –

“(la) paragraph 22(6) of Schedule 12A;”.

Member's explanatory statement

This amendment provides that Article 3 of Regulation No 1182/71 (rules of interpretation regarding periods of time etc) does not apply to paragraph 22(6) of Schedule 12A to the Data Protection Act 2018 (inserted by Schedule 15 to the Bill).

Schedule 15

VISCOUNT CAMROSE

Schedule 15, page 287, line 26, at end insert –

“Supplementary powers

- 23A The Commission may do anything it thinks appropriate for the purposes of, or in connection with, its functions.”

Member's explanatory statement

This amendment makes clear that the Information Commission has power to do things to facilitate the exercise of its functions.

VISCOUNT CAMROSE

Schedule 15, page 288, line 25, leave out sub-paragraph (3) and insert –

- “(3) For the purposes of paragraph 7(3) of Schedule 12A to the 2018 Act (extension of chair’s term), the term of the person’s appointment as chair of the Information Commission is to be treated as a term beginning when the person began to hold the office of Information Commissioner.”

Member's explanatory statement

This amendment ensures that provision limiting the extension of a person’s term of appointment as chair of the Information Commission (in paragraph 7 of new Schedule 12A to the Data Protection Act 2018, read with section 205(2) of that Act) applies in the same manner to the transitional appointment of the current Information Commissioner as chair.

Clause 150

VISCOUNT CAMROSE

Clause 150, page 188, line 3, at end insert –

- “(3A) Regulations under this section made in consequence of section 183A of the 2018 Act (inserted by section 49 of this Act) may amend, repeal or revoke provision which refers to the data protection legislation (as defined in section 3 of the 2018 Act) as they could if the provision referred instead to the main data protection legislation (as defined in section 183A of the 2018 Act).”

Member's explanatory statement

This amendment makes clear that regulations making amendments consequential on new section 183A of the Data Protection Act 2018 (inserted by clause 49 of the Bill) can remove provision which duplicates the effect of that section but which refers to the “data protection legislation” generally, rather than the “main data protection legislation”.

Clause 154

VISCOUNT CAMROSE

Clause 154, page 189, line 24, leave out “subsection (3)” and insert “subsections (2) and (3)”

Member's explanatory statement

This amendment provides that subsection (4) of this clause is subject to subsection (2) of this clause, as well as subsection (3).

Data Protection and Digital Information Bill

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

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