

Data Protection and Digital Information Bill

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

Clause 14

BARONESS JONES OF WHITCHURCH

Clause 14, page 26, line 10, after “processing” insert “, including profiling,”

Member's explanatory statement

This amendment, and another in the name of Baroness Jones of Whitchurch to the proposed new Article 22A of the UK GDPR, would make clear that protection is offered for profiling operations leading to decisions.

BARONESS JONES OF WHITCHURCH

Clause 14, page 26, line 13, after first “decision” insert “, including a decision based on profiling,”

Member's explanatory statement

This amendment, and another in the name of Baroness Jones of Whitchurch to the proposed new Article 22A of the UK GDPR, would make clear that protection is offered for profiling operations leading to decisions.

BARONESS JONES OF WHITCHURCH

Clause 14, page 26, line 19, at end insert –

- “3. To qualify as meaningful human involvement, the review must be performed by a person with the necessary competence, training, authority to alter the decision and analytical understanding of the data.”

Member's explanatory statement

This amendment would make clear that in the context of new Article 22A of the UK GDPR, for human involvement to be considered as meaningful, the review must be carried out by a competent person.

BARONESS JONES OF WHITCHURCH

Clause 14, page 26, line 21, at end insert –

“A1. The data subject may not be subject to any decision based on data processing which contravenes a requirement of the Equality Act 2010.”

Member's explanatory statement

This amendment to new Article 22B of the UK GDPR, aims to make clear that data processing which contravenes any part of the Equality Act 2010 is prohibited.

BARONESS JONES OF WHITCHURCH

Clause 14, page 26, leave out lines 30 and 31

Member's explanatory statement

This amendment to new Article 22B of the UK GDPR would remove the condition relating to the entering into, or performing of, a contract between a data subject and a controller. This is to prevent data subjects from becoming trapped in unfair agreements and being unable to exercise their data rights.

BARONESS JONES OF WHITCHURCH

Clause 14, page 26, line 32, after “law” insert “which also lays down suitable measures to safeguard the data subject’s rights and freedoms and legitimate interests”

Member's explanatory statement

This amendment to new Article 22B of the UK GDPR would change the second condition to make clear that it only applies to laws which contain safeguards for data subject’s rights, freedoms and legitimate interests.

BARONESS JONES OF WHITCHURCH

Clause 14, page 27, line 10, at beginning insert “In addition to the transparency obligations in Articles 12 to 15,”

Member's explanatory statement

This amendment would make clear that safeguards in new Article 22C of the UK GDPR are to operate alongside, rather than instead of, transparency obligations contained in Articles 12 to 15 of that document.

Clause 20

BARONESS JONES OF WHITCHURCH

Clause 20, page 41, line 20, at end insert –

“(aa) in subsection (1), after “individuals” insert “which includes all significant decisions within the meaning of Article 22A of the UK GDPR””

Member's explanatory statement

This amendment, and others to Clause 20 in the name of Baroness Jones of Whitchurch, would create a broader risk assessment for significant decisions that includes consideration of equalities matters.

BARONESS JONES OF WHITCHURCH

Clause 20, page 41, line 23, after “data” insert “, the protections from unlawful discrimination contrary to the Equality Act 2010, and the rights and freedoms of individuals”

Member's explanatory statement

This amendment, and others to Clause 20 in the name of Baroness Jones of Whitchurch, would create a broader risk assessment for significant decisions that includes consideration of equalities matters.

BARONESS JONES OF WHITCHURCH

Clause 20, page 41, line 30, at end insert –

“(ba) an assessment of the extent to which there is meaningful human involvement in any significant decisions within the meaning of Article 22A of the UK GDPR including their competence, training, authority to alter the decision, and analytical understanding of the data,”

Member's explanatory statement

This amendment, and others to Clause 20 in the name of Baroness Jones of Whitchurch, would create a broader risk assessment for significant decisions that includes consideration of equalities matters.

Clause 21

BARONESS JONES OF WHITCHURCH

Clause 21, page 41, line 39, leave out paragraph (a)

Member's explanatory statement

This amendment would remove a proposed change to Article 36 of the UK GDPR, which would downgrade a data controller's duty to consult the Information Commissioner prior to undertaking

processing with a high risk to individual rights and freedoms. It is to probe whether there are specific cases, such as the handling of health data, where prior consultation should remain mandatory.

BARONESS JONES OF WHITCHURCH

Clause 21, page 42, line 11, leave out paragraph (a)

Member's explanatory statement

This amendment would remove a proposed change to section 65 of the Data Protection Act 2018, which would downgrade a data controller's duty to consult the Information Commissioner prior to undertaking processing with a high risk to individual rights and freedoms. It is to probe whether there are specific cases, such as the handling of health data, where prior consultation should remain mandatory.

Schedule 4

BARONESS JONES OF WHITCHURCH

Schedule 4, page 200, leave out line 34 and insert –

- “12 (1) Section 14 (automated decision-making authorised by law: safeguards) is amended as follows.
- (2) In subsection (1) –
 - (a) for “22(2)(b)” substitute “22B(3)(a)”, and
 - (b) for “22(1)” substitute “22A(1)”.
 - (3) Omit subsection (3).
 - (4) In subsection (4) –
 - (a) after “takes a” omit “qualifying”, and
 - (b) after “decision” insert “that falls within sub-paragraph (1)”.
 - (5) In subsection (4)(a), after “processing” insert “and provide meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject, and which includes a personalised explanation for the decision”.
 - (6) In subsection (7) omit “qualifying”.

Member's explanatory statement

This amendment would preserve and amend section 14 of the Data Protection Act 2018 to allow individuals to receive a personalised explanation of decisions reached following the automated processing of their data.

Clause 113

BARONESS JONES OF WHITCHURCH

Clause 113, page 139, line 37, leave out “, political or other” and insert “or”

Member's explanatory statement

This amendment would remove the introduction of soft opt-in for political parties and campaigners, whose activity is governed by other regulation.

BARONESS JONES OF WHITCHURCH

Clause 113, page 140, line 10, at end insert –

“(3B) For the purposes of paragraph (3A)(a), “non-commercial objective” does not include political campaigning activity.”

Member's explanatory statement

This amendment is to make clear that while a previous amendment to Clause 113 would retain the ability for non-commercial entities to use soft opt-in, this cannot be used for those wishing to undertake political campaigning activity.

Schedule 15

BARONESS JONES OF WHITCHURCH

Schedule 15, page 279, line 13, at end insert –

- “(8) Members of the Information Commission shall be precluded, for a period of two years after leaving office, from –
- (a) accepting employment with a business that was subject to an enforcement action or civil action during the member’s tenure or during the five-year period preceding the member’s appointment, or
 - (b) acting for, compensation as a legal representative for, or otherwise represent, any other person in a matter pending before the agency if the purpose is to influence an action of the agency.”

Member's explanatory statement

This amendment would prevent members of the Information Commission from seeking employment from the industries they regulated during their terms. It is to probe what steps the Government and ICO are taking to prevent the so-called ‘revolving door’ between regulators and the industries they regulate.

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