

INVESTIGATORY POWERS (AMENDMENT) BILL [HL]

EXPLANATORY NOTES ON COMMONS AMENDMENTS

What these notes do

These Explanatory Notes relate to the Investigatory Powers (Amendment) Bill [HL] as brought from the House of Commons on 26 March 2024 (HL Bill 58).

- These Explanatory Notes have been prepared by the Home Office in order to assist the reader of the Bill and the Commons amendments, and to help inform debate on the Commons amendments. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes, like the Commons amendments themselves, refer to Bill 157, the Bill as first printed for the Commons.
- These Explanatory Notes need to be read in conjunction with the Commons amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the Commons amendments.
- Commons Amendments 1 to 2 and 7 to 17 were tabled in the name of the Minister, the Rt Hon Tom Tugendhat MBE VR MP.
- Commons Amendments 3 to 6 were tabled in the name of the Secretary of State, the Rt Hon James Cleverly MP.

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Commentary on Commons Amendments

Commons Amendments to Part 2: Oversight

Commons Amendments to Clause 11: Personal Data Breaches

Commons Amendments 1 and 2

- 1 Clause 11 requires Telecommunications Operators (TOs) to notify certain personal data breaches to the Investigatory Powers Commissioner (IPC) who must also then inform the Information Commissioner about details of those breaches. The Clause provides the IPC with the power to inform an individual if they have been affected by a personal data breach committed by a TO, if the IPC determines it is in the public interest to do so.
- 2 These amendments ensure that the Investigatory Powers Tribunal has the jurisdiction to be the forum to consider and determine complaints about personal data breaches committed by TOs.

Commons Amendments to Part 3: Communications Data

Commons Amendments to Clause 14: Powers to obtain communications data

Commons Amendments 3 to 6

- 3 These amendments limit the scope of the re-instatement of public authorities' general information powers which are regulatory and supervisory powers. These are powers which can be used to secure the disclosure of communications data from a telecommunications operator without that operator's consent. The re-instatement of these powers will be limited to just those public authorities specified in Schedule 2A and Schedule 4 of the Investigatory Powers Act 2016.
- 4 Amendment 6 inserts new Schedule 2A into the Investigatory Powers Act 2016; this new Schedule includes specified public authorities and the clause also specifies bodies listed in column 1 of existing Schedule 4. Local authorities are included in Schedule 2A (and have the same meaning as in section 86 the Investigatory Powers Act 2016) alongside the Treasury.
- 5 These amendments also create a power, by amending section 267 of the Investigatory Powers Act 2016, for a Secretary of State or the Treasury to add or remove authorities from Schedule 2A by regulations.

Commons Amendments to Part 4: Notices

Commons Amendments to Clause 21: Notification of proposed changes to telecommunications services etc

Commons Amendments 7 to 14

- 6 These amendments provide that the expression "relevant operator" is used consistently in inserted sections 258A and 258B and references to a variation of a notice are used consistently in Chapter 1 of Part 9 of the Investigatory Powers Act 2016.

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Commons Amendments to Part 5: Miscellaneous

Commons Amendments to Clauses 22: Interception and examination of communications: Members of Parliament etc

Commons Amendment 15

- 7 This amendment replaces the reference to an individual being required in their routine duties to issue warrants under the Investigatory Powers Act 2016 with a reference to an individual being required to have the necessary operational awareness to decide whether to give approvals under section 26 of that Act.

Commons Amendments to Clauses 22: Equipment interference: Members of Parliament etc

Commons Amendment 16

- 8 This amendment replaces the reference to an individual being required in their routine duties to issue warrants under the Investigatory Powers Act 2016 with a reference to an individual being required to have the necessary operational awareness to decide whether to give approvals under section 111 of that Act.

Commons Amendments to Part 6: General

Commons Amendments to Clause 33: Short title

Commons Amendments 17

- 9 This amendment removes the privilege amendment inserted by the Lords.

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