

Data Protection and Digital Information Bill

FIFTH MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

The amendments have been marshalled in accordance with the Instruction of 19th December 2023, as follows –

| | |
|------------------|--------------------|
| Clauses 1 to 5 | Clauses 52 to 117 |
| Schedule 1 | Schedule 10 |
| Clause 6 | Clauses 118 to 128 |
| Schedule 2 | Schedule 11 |
| Clauses 7 to 14 | Clauses 129 to 137 |
| Schedule 3 | Schedule 12 |
| Clauses 15 to 24 | Clause 138 |
| Schedule 4 | Schedule 13 |
| Clause 25 | Clauses 139 to 142 |
| Schedules 5 to 7 | Schedule 14 |
| Clauses 26 to 46 | Clause 143 |
| Schedule 8 | Schedule 15 |
| Clauses 47 to 51 | Clauses 144 to 157 |
| Schedule 9 | Title |

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 44

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 44 stand part of the Bill.

Member's explanatory statement

This amendment seeks to probe whether Clause 44 hinders data subjects' right to lodge complaints, and extends the scope of orders under Section 166 of the Data Protection Act to the appropriateness of the Commissioner's response to a complaint.

Clause 45

VISCOUNT CAMROSE

152 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.

LORD CLEMENT-JONES

153 Leave out Clause 45, and insert the following new Clause –

“Commissioner’s response to a complaint

- (1) Section 166 of the Data Protection Act 2018 (orders to progress complaints) is amended as follows.
- (2) After subsection (1)(c) insert –
 - “(d) fails to investigate the complaint to the extent necessary, or to take appropriate action in order to remedy any findings of inadequacy.”
- (3) After subsection (2)(b) insert –
 - “(c) to use formal powers as appropriate to investigate the complaint and to remedy any findings of inadequacy, unless the request from the data subject is manifestly unfounded or excessive.””

Member's explanatory statement

This amendment probes whether provisions in the Bill could be added to enhance data subjects’ right to lodge complaints, and extends the scope of orders under section 166 of the Data Protection Act 2018 to the appropriateness of the Commissioner’s response to a complaint.

After Clause 46

BARONESS JONES OF WHITCHURCH

LORD CLEMENT-JONES

154 After Clause 46, insert the following new Clause –

“Provision about representation of data subjects

In subsection (1) of section 190 of the Data Protection Act 2018, for “After the report under section 189(1) is laid before Parliament, the Secretary of State may” substitute “The Secretary of State must, within three months of the passage of the Data Protection and Digital Information Act 2024,””

Member's explanatory statement

This new Clause would require the Secretary of State to exercise powers under section 190 of the Data Protection Act 2018 to allow organisations to raise data breach complaints on behalf of data

subjects generally, in the absence of a particular subject who wishes to bring forward a claim about misuse of their own personal data.

After Clause 48

LORD CLEMENT-JONES

155 After Clause 48, insert the following new Clause –

“Modifications of courts and tribunals functions

- (1) Schedule (“Modifications of courts and tribunals functions”) makes provision about the modification of the jurisdiction of the courts and tribunals in the Data Protection Act 2018; and for other connected purposes.
- (2) In that Schedule –
 - (a) Part 1 makes modifications to the Data Protection Act 2018 for the purpose of transferring the functions of courts to tribunals; and
 - (b) Part 2 makes transitional provision about Part 1 in relation to proceedings currently before courts under the Data Protection Act 2018, before that Schedule comes into force.”

Member's explanatory statement

This amendment, and the Schedule to which it refers, seeks to address the potential jurisdictional confusion of remedies currently in the Data Protection Act 2018.

Clause 49

VISCOUNT CAMROSE

156 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

157 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

158 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

159 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

160 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

161 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

162 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

163 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

164 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.

LORD CLEMENT-JONES

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

“(5) In section 5 of the European Union (Withdrawal) Act 2018 (exceptions to savings and incorporation), after subsection (A3)(b) insert “(c) subsection (A5)””

Member's explanatory statement

This amendment, along with another in the name of Lord Clement-Jones, restores the relationship between the UK GDPR and the Data Protection Act 2018 which existed before the relevant provisions of the Retained EU Law (Revocation and Reform) Act 2023 came into force.

LORD CLEMENT-JONES

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

“(5) In section 5 of the European Union (Withdrawal) Act 2018 (exceptions to savings and incorporation), after subsection (A4) insert –

“(A5) Any provisions of the Data Protection Act 2018 –

- (a) must, so far as possible, be read and given effect in a way which is compatible with the UK GDPR, and
- (b) are subject to the UK GDPR, so far as they are incompatible with it.”

Member's explanatory statement

This amendment, along with another in the name of Lord Clement-Jones, restores the relationship between the UK GDPR and the Data Protection Act 2018 which existed before the relevant provisions of the Retained EU Law (Revocation and Reform) Act 2023 came into force.

After Clause 51

LORD CLEMENT-JONES

167 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.”

LORD CLEMENT-JONES

168 After Clause 51, insert the following new Clause –

“Confirmation of the continuing applicability of assimilated case law in the area of data protection which references the Charter of Fundamental Rights

- (1) Section 5 of the European Union (Withdrawal) Act 2018 is amended as follows.
- (2) After subsection (4) insert the following –

“(5) Subsection (4) does not affect the retention in domestic law on or after exit day in accordance with this Act of any fundamental rights or principles in the area of data protection which exist irrespective of the Charter (and references to the Charter in any case law in the area of data protection are, so far as necessary for this purpose, to be read as if they were references to any corresponding assimilated fundamental rights or principles).”

Member's explanatory statement

The effect of this amendment is that assimilated case law which refers to the Charter will still be relevant in interpreting the UK GDPR and the Data Protection Act 2018. This assists legal certainty in how to interpret the UK's data protection frameworks.

LORD CLEMENT-JONES

169 After Clause 51, insert the following new Clause –

“Confirmation of the continuing applicability of assimilated general principles of EU law

- (1) The European Union (Withdrawal) Act 2018 is amended as follows.
- (2) In section 6(3)(a) after “assimilated case law” insert “and any assimilated general principles of EU law””

Member's explanatory statement

This amendment ensures that the UK GDPR and Data Protection Act 2018 are interpreted as before, in accordance with the general principle of the protection of personal data.

LORD CLEMENT-JONES

170 After Clause 51, insert the following new Clause –

“Inclusion of a definition of assimilated general principles of EU law insofar as they apply to the fundamental right to the protection of personal data

- (1) The European Union (Withdrawal) Act 2018 is amended as follow.
- (2) In section 6(7), at the appropriate place, insert –
 - ““assimilated general principles of EU law”” means the general principles of EU law, as they had effect in EU law immediately before IP completion day and so far as they –
 - (a) relate to anything to which section 2, 3 or 4 applies,
 - (b) are not excluded by section 5 or Schedule 1, and
 - (c) apply in the context of the fundamental right to the protection of personal data (as those principles are modified by or under this Act or by other domestic law from time to time).””

Member's explanatory statement

This amendment creates the definition of “assimilated general principles of EU law” which refers to the general principle of the protection of personal data as it applied before the end of 2023. However, the amendment only applies in the context of the protection of personal data.

LORD CLEMENT-JONES

171 After Clause 51, insert the following new Clause –

“Application of safeguards as required under Article 23(2) of the UK GDPR

- (1) In Schedule 2 to the Data Protection Act 2018, after Paragraph 1, insert –
 - “1A(1) Except where paragraph 4, 26 or 27 are engaged, an exemption in this Schedule will not be applicable unless the decision to apply that exemption has been made in accordance with this paragraph.
- (2) Where a controller wishes to rely on an exemption from a relevant listed GDPR provision, that decision must be made –
 - (a) on a case by case basis,
 - (b) separately in respect of each of the relevant listed GDPR provisions which are being restricted in accordance with the relevant provisions of this Schedule, and
 - (c) afresh on each occasion on which the Controller considers an exemption to any of the relevant listed GDPR provisions.
- (3) When making a decision to rely on an exemption, the controller must take into account all the circumstances of the case, including at least the following –
 - (a) any potential vulnerability of the data subject that is relevant to the decision,
 - (b) all the rights and freedoms of the data subject, and
 - (c) the need to ensure compliance with the UK GDPR.
- (4) Where compliance with a particular provision listed in Article 23(1) of the UK GDPR and the relevant provisions of this Schedule enable the application of an exemption to the extent that compliance with the UK GDPR would be likely to prejudice a particular matter or activity specified in this Schedule, a decision to apply the exemption may be made only if –
 - (a) the application of that provision or those provisions would give rise to a substantial risk of prejudice to any of the matters mentioned in the relevant provision of Schedule 2,
 - (b) that risk outweighs the risk of prejudice to the interests of the data subject concerned that would arise if the exemption were to apply in relation to that provision or those provisions, and
 - (c) the application of the exemption in relation to that provision or those provisions is necessary and proportionate to the risks in the particular case.
- (5) In this paragraph, “relevant listed GDPR provision” means the relevant listed GDPR provision in Parts I to 4 of this Schedule (other than paragraph 4).
- (6) In this paragraph 1A, “exemption” means a restriction within the meaning of Article 23(1) of the UK GDPR.

- 1B (1) Where a controller makes a decision mentioned in paragraph 1A(3) or (4), the controller must keep a record of it and the reasons for it.
- (2) Where an exemption from a relevant listed GDPR provision has been applied, the controller must also inform the data subject of the decision unless, in the particular circumstances of the case, the controller considers that doing so may be prejudicial to any of the matters mentioned in the relevant provision of Schedule 2.”

Member's explanatory statement

This amendment ensures that the protections which have been applied to the immigration exemption in paragraph 4 of Schedule 2 to the Data Protection Act 2018 through the Data Protection Act 2018 (Amendment of Schedule 2 Exemptions) Regulations 2024 can apply across the board.

LORD CLEMENT-JONES

172 After Clause 51, insert the following new Clause –

“Application of safeguards as required under Article 23(2) of the UK GDPR in the context of health, social work, education and child abuse data

- (1) In Schedule 3 to the Data Protection Act 2018, after paragraph 1, insert –
- “1A(1) An exemption from the relevant listed GDPR provisions in this Schedule will not be applicable unless the decision to apply that exemption has been made in accordance with this paragraph.
- (2) Where a controller wishes to rely on an exemption from a relevant listed GDPR provision, that decision must be made –
- (a) on a case by case basis,
 - (b) separately in respect of each of the relevant listed GDPR provisions which are being restricted in accordance with the relevant provisions of this Schedule, and
 - (c) afresh on each occasion on which the Controller considers an exemption to any of the relevant listed GDPR provisions.
- (3) When making a decision to rely on an exemption, the controller must take into account all the circumstances of the case, including at least the following –
- (a) any potential vulnerability of the data subject that is relevant to the decision,
 - (b) all the rights and freedoms of the data subject, and
 - (c) the need to ensure compliance with the UK GDPR.
- (4) Where compliance with a particular provision listed in Article 23(1) of the UK GDPR and the relevant provisions of this Schedule enable the application of an exemption to the extent that compliance with the UK GDPR would be likely to prejudice a particular matter or activity specified in this Schedule, a decision to apply the exemption may be made only if –

- (a) the application of that provision or those provisions would give rise to a substantial risk of prejudice to any of the matters mentioned in the relevant provision of Schedule 3,
 - (b) that risk outweighs the risk of prejudice to the interests of the data subject concerned that would arise if the exemption were to apply in relation to that provision or those provisions, and
 - (c) the application of the exemption in relation to that provision or those provisions is necessary and proportionate to the risks in the particular case.
- (5) In this paragraph, “relevant listed GDPR provision” means the relevant listed GDPR provision in this Schedule.
- (6) In this paragraph, “exemption” means a restriction within the meaning of Article 23(1) of the UK GDPR.
- 1B (1) Where a controller makes a decision mentioned in paragraph 1A(3) or(4), the controller must keep a record of it and the reasons for it.
- (2) Where an exemption from a relevant listed GDPR provision has been applied, the controller must also inform the data subject of the decision unless, in the particular circumstances of the case, the controller considers that doing so may be prejudicial to any of the matters mentioned in the relevant provision of Schedule 3.”

Member's explanatory statement

Schedule 3 of DPA 2018 contains exemptions from listed GDPR provisions in the context of health, social work education and child abuse data. This amendment extends the protections which now apply in the context of immigration to these areas.

LORD CLEMENT-JONES

173

After Clause 51, insert the following new Clause –

“Application of safeguards as required under Article 23(2) of the UK GDPR where disclosure is prohibited or restricted by an enactment

- (1) In Schedule 4 to the Data Protection Act 2018, after Paragraph 1 insert –
- “1A(1) An exemption from the relevant listed GDPR provisions in this Schedule will not be applicable unless the decision to apply that exemption has been made in accordance with this paragraph.
- (2) Where a controller wishes to rely on an exemption from a relevant listed GDPR provision, that decision must be made –
- (a) on a case by case basis,
 - (b) separately in respect of each of the relevant listed GDPR provisions which are being restricted in accordance with the relevant provisions of this Schedule, and
 - (c) afresh on each occasion on which the Controller considers an exemption to any of the relevant listed GDPR provisions.

- (3) When making a decision to rely on an exemption, the controller must take into account all the circumstances of the case, including at least the following—
 - (a) any potential vulnerability of the data subject that is relevant to the decision,
 - (b) all the rights and freedoms of the data subject, and
 - (c) the need to ensure compliance with the UK GDPR.
 - (4) In this paragraph, “relevant listed GDPR provision” means the relevant listed GDPR provision in Parts 1 to 4 of this Schedule (other than paragraph 4).
 - (5) In this paragraph, “exemption” means a restriction within the meaning of Article 23(1) of the UK GDPR
- 1B (1) Where a controller makes a decision mentioned in paragraph 1A(3), the controller must keep a record of it and the reasons for it.
- (2) Where an exemption from a relevant listed GDPR provision has been applied, the controller must also inform the data subject of the decision unless, in the particular circumstances of the case, the controller considers that doing so may be prejudicial to any of the matters mentioned in the relevant provision of Schedule 4.””

Member's explanatory statement

This amendment extends the protections which now apply in the context of immigration to these areas. There are no safeguards relating to the prejudice test as for other relevant schedules as there is no exemption in Schedule 4 which requires the application of such a test.

LORD CLEMENT-JONES

174 After Clause 51, insert the following new Clause—

“Revival of the fundamental right to the protection of personal data

- (1) The European Union (Withdrawal) Act 2018 is amended as follows.
- (2) After section 3 insert—

“3A Saving for rights etc. under section 2(1) of the ECA insofar as they apply to the fundamental right to the protection of personal data

Any rights, powers, liabilities, obligations, restrictions, remedies and procedures which, immediately before IP completion day—

- (a) were recognised and available in domestic law by virtue of section 2(1) of the European Communities Act 1972, and
 - (b) were enforced, allowed and followed accordingly,
- continue to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly), insofar as they apply to the fundamental right to the protection of personal data.””

Member's explanatory statement

This amendment (and other related consequential amendments) would restore the right to the protection of personal data by reviving section 4 of the European Union (Withdrawal) Act 2018, insofar as it applied to the protection of personal data, as well as restoring Article 4(28) of the UK GDPR to its previous form.

LORD CLEMENT-JONES

174A After Clause 51, insert the following new Clause –

“Consequential amendment to the European Union (Withdrawal) Act 2018 relating to the revival of the fundamental right to the protection of personal data

In section 5(A4) of the European Union (Withdrawal) Act 2018, at end insert “except insofar as it applies to the fundamental right to the protection of personal data””

Member's explanatory statement

This is a consequential amendment linked to the revival of the general principle of the protection of personal data through the amendments to section 4 of the European Union (Withdrawal) Act 2018.

LORD CLEMENT-JONES

174B After Clause 51, insert the following new Clause –

“Consequential amendment to the UK GDPR relating to the revival of the fundamental right to the protection of personal data

In Article 4 of the UK GDPR for paragraph 28, substitute –

“(28) References to a fundamental right or fundamental freedom (however expressed) are to a fundamental right or fundamental freedom which continued to form part of domestic law on and after IP completion day by virtue of section 4 of the European Union (Withdrawal) Act 2018, as the right or freedom is amended or otherwise modified by domestic law from time to time on or after IP completion day.””

Member's explanatory statement

This is a consequential amendment to the Data Protection Act 2018, related to the revival of the fundamental right to the protection of personal data.

Before Schedule 9

LORD CLEMENT-JONES

175 Before Schedule 9, insert the following new Schedule –

“SCHEDULE

MODIFICATIONS OF COURTS AND TRIBUNALS FUNCTIONS

PART 1

TRANSFER OF FUNCTIONS

- 1 The 2018 Act is amended as follows.
- 2 In section 44(5)(e) (information: controller’s general duties), for “court” substitute “tribunal”.
- 3 In section 45(5)(e) (right of access by the data subject), for “court” substitute “tribunal”.
- 4 In section 48 (rights under sections 46 or 47: supplementary) –
 - (a) in subsection (1)(b)(iv) for “court” substitute “tribunal”; and
 - (b) in subsection (4)(d) for “court” substitute “tribunal”.
- 5 In section 51(5) (exercise of rights through the Commissioner), for “court” substitute “tribunal”.
- 6 In section 94 (right of access) –
 - (a) in subsection (11), in both instances, for “court” substitute “tribunal”;
 - (b) in subsection (12), for “court” substitute “tribunal”;
 - (c) in subsection (13), for first “court” substitute “tribunal”; and
 - (d) in subsection (13), for “the High Court or, in Scotland, by the Court of Session” substitute “the Upper Tribunal”.
- 7 In section 99 (right to object to processing) –
 - (a) in subsection (5), in every instance, for “court” substitute “tribunal”;
 - (b) in subsection (6), for “court” substitute “tribunal”;
 - (c) in subsection (7), for first “court” substitute “tribunal”; and
 - (d) in subsection (7), for “the High Court or, in Scotland, by the Court of Session” substitute “the Upper Tribunal”.
- 8 In section 100 (rights to rectification and erasure) –
 - (a) in subsection (1), in both instances, for “court” substitute “tribunal”;
 - (b) in subsection (2), in both instances, for “court” substitute “tribunal”;
 - (c) in subsection (3), for “court” substitute “tribunal”;
 - (d) in subsection (4), in both instances, for “court” substitute “tribunal”;
 - (e) in subsection (5), in both instances, for “court” substitute “tribunal”;
 - (f) in subsection (6), for first “court” substitute “tribunal”; and

- (g) in subsection (6), for “the High Court or, in Scotland, by the Court of Session” substitute “the Upper Tribunal”.
- 9 In section 145 (information orders) –
- (a) in subsection (1), for “court” substitute “tribunal”; and
 - (b) in subsection (2), in both instances, for “court” substitute “tribunal”.
- 10 In section 152 (enforcement notices: restrictions) –
- (a) in subsection (1)(b), for “court” substitute “tribunal”; and
 - (b) in subsection (2), in both instances, for “court” substitute “tribunal”.
- 11 In section 156 (penalty notices: restrictions) –
- (a) in subsection (1)(b), for “court” substitute “tribunal”; and
 - (b) in subsection (2), in both instances, leave out “court” and insert “tribunal”.
- 12 In section 164 (applications in respect of urgent notices) –
- (a) in subsection (2), for “court” substitute “tribunal”;
 - (b) in subsection (3), for “court” substitute “tribunal”; and
 - (c) in subsection (4), for “court” substitute “tribunal”.
- 13 In the italic heading before section 165 (complaints by data subjects), after “Complaints” insert “and remedies in the tribunal”.
- 14 Omit the italic heading before section 167 (compliance orders).
- 15 In section 167 (compliance orders) –
- (a) in subsection (1), for “court” substitute “tribunal”;
 - (b) in subsection (2), for “court” substitute “tribunal”; and
 - (c) in subsection (5), for “court” substitute “tribunal”.
- 16 In section 168 (compensation for contravention of the UK GDPR) –
- (a) in subsection (2)(a), for “rules of court” substitute “Tribunal Procedure Rules”;
 - (b) in subsection (2)(b), for “court” substitute “tribunal”; and
 - (c) in subsection (3) in both instances, for “court” substitute “tribunal”.
- 17 In section 175 (provision of assistance in special purposes proceedings) –
- (a) in subsection (7), for “rules of court” substitute “Tribunal Procedure Rules”;
 - (b) in subsection (7)(a), for “court” substitute “tribunal”;
 - (c) in subsection (8), for “rules of court” substitute “Tribunal Procedure Rules”; and
 - (d) in subsection (8)(a), for “court” substitute “tribunal”.
- 18 In section 176 (staying special purposes proceedings) –
- (a) in subsection (1), in all instances, for “court” substitute “tribunal”; and
 - (b) in subsection (3), for “court” substitute “tribunal”.
- 19 In section 177(5)(b) (guidance about how to seek redress against media organisations) for “court” substitute “tribunal”.

- 20 In the italic cross heading before section 180 (jurisdiction) for “court” substitute “tribunal”.
- 21 In section 180 (jurisdiction) omit subsection (1) and insert –
- “(1) The jurisdiction conferred on a tribunal by the provisions listed in subsection (2) are exercisable by the First-tier tribunal, subject to subsections (3), (4) and (5).”
- 22 In section 180 (jurisdiction) –
- (a) in subsection (3), for “the High Court or, in Scotland, the Court of Session” substitute “the Upper Tribunal”;
 - (b) in subsection (4) for first "court" substitute "tribunal";
 - (c) in subsection (4), for “the High Court or, in Scotland, the Court of Session” substitute “the Upper Tribunal”; and
 - (d) in subsection (5), for “the High Court or, in Scotland, the Court of Session” substitute “the Upper Tribunal”.
- 23 In section 202 (proceedings in the First-tier Tribunal: contempt), omit subsection (1)(a) and insert –
- “(a) person does something, or fails to do something, in relation to proceedings before the First-tier Tribunal under sections 27, 45, 46, 51, 79, 94, 99, 100, 111, 162, 166, 167, 168, 175, 176, 177, and”

PART 2

CURRENT CASES BEFORE THE COURTS

- 24 This Part applies to all proceedings currently before the courts.
- 25 All proceedings, including claims and appeals, or other proceedings as the case may be that are currently in the High Court or the county court or, in Scotland, the Court of Session or a sheriff, are transferred in pursuance of this Schedule, and the amendments made by this Schedule, to the relevant tribunal.
- 26 It is immaterial the stage of the proceedings in the court before the proceedings are transferred.
- 27 “The relevant tribunal” means –
- (a) if the proceedings are in the County Court, or before a sheriff, the First-tier Tribunal; or
 - (b) if the proceedings are in the High Court, or the Court of Session, the Upper Tribunal.
- 28 The Upper Tribunal may by order transfer any proceedings automatically transferred to it from a court in pursuance of this paragraph to the First-tier Tribunal, if the Upper Tribunal considers it appropriate.
- 29 The Upper Tribunal may by order transfer any proceedings from the First-tier Tribunal to the Upper Tribunal which have been automatically transferred to the First-tier Tribunal from a court in pursuance of this paragraph, if the Upper Tribunal considers it appropriate.

- 30 The First-tier Tribunal may by order transfer any proceedings automatically transferred to it from a court in pursuance of this paragraph to the Upper Tribunal, if the First-tier Tribunal considers it appropriate.
- 31 The decision to transfer proceedings under this paragraph is final and is not liable to be questioned in any court or tribunal.”

Member's explanatory statement

This amendment seeks to address the potential jurisdictional confusion of remedies currently in the Data Protection Act 2018.

Schedule 9

VISCOUNT CAMROSE

176 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 53BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

177 Clause 53, page 88, line 16, at end insert –

“(13) The DVS trust framework and any revision to it must be made by regulations subject to the affirmative resolution procedure.”

Member's explanatory statement

This amendment would require the document setting rules for providers of digital verification services (or any revisions to it) to be laid before, and approved by, both Houses of Parliament. It

is intended to implement a recommendation of the Delegated Powers and Regulatory Reform Committee.

Clause 60

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

178 Clause 60, page 91, line 4, leave out “the determination” and insert “regulations”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

179 Clause 60, page 91, line 5, leave out “A determination” and insert “Regulations”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

180 Clause 60, page 91, line 9, leave out “the determination” and insert “regulations”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

181 Clause 60, page 91, line 11, leave out “A determination” and insert “Regulations”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

- 182 Clause 60, page 91, line 17, leave out “A determination” and insert “Regulations”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

- 183 Clause 60, page 91, line 18, leave out subsections (7) to (9) and insert –
“(7) Regulations under this section are subject to the negative resolution procedure.”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations, with the negative procedure offering the appropriate level of parliamentary scrutiny.

Clause 63

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

- 184 Clause 63, page 92, line 27, leave out “a determination” and insert “regulations”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations.

LORD CLEMENT-JONES

- 184A Clause 63, page 92, line 34, leave out “or” and insert –

“(ba) it was issued to a public body, or”

Member's explanatory statement

This amendment seeks to exclude powers in this part from being used by the Cabinet Office as part of GOV.UK login.

Clause 64

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

185 Clause 64, page 93, line 24, leave out “a determination” and insert “regulations”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations.

Clause 65

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

186 Clause 65, page 94, line 3, leave out “a determination” and insert “regulations”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations.

Clause 66

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

187 Clause 66, page 94, line 41, leave out “a determination” and insert “regulations”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations.

Clause 68

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

188 Clause 68, page 95, line 33, leave out “determination” and insert “regulations”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

- 189 Clause 68, page 95, line 34, leave out “A determination” and insert “Regulations”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

- 190 Clause 68, page 95, line 36, leave out “determine” and insert “by regulations require”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

- 191 Clause 68, page 95, line 37, leave out “determination” and insert “regulations”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

- 192 Clause 68, page 95, line 38, leave out “determination” and insert “regulations”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

- 193 Clause 68, page 96, line 1, leave out “A determination” and insert “Regulations”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

- 194** Clause 68, page 96, line 6, leave out “A determination” and insert “Regulations”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

- 195** Clause 68, page 96, line 7, leave out subsections (7) to (9) and insert –

“(7) Regulations under this section are subject to the negative resolution procedure.”

Member's explanatory statement

This is one of a series of amendments to make the Secretary of State's fee-setting powers subject to parliamentary scrutiny. The Delegated Powers and Regulatory Reform Committee found that certain Part 2 powers should only be exercisable by the Secretary of State by regulations, with the negative procedure offering the appropriate level of parliamentary scrutiny.

After Clause 73

LORD KAMALL
LORD VAUX OF HARROWDEN
LORD CLEMENT-JONES

- 195ZA** After Clause 73, insert the following new Clause –

“Right to non-digital ID

- (1) This section applies when an organisation –
 - (a) requires an individual to use a verification service, and
 - (b) uses a digital verification service for that purpose.
- (2) The organisation must –
 - (a) make a non-digital alternative method of verification available to any individual required to use a verification service, and
 - (b) provide information about digital and non-digital methods of verification to those individuals before verification is required.”

Member's explanatory statement

This new clause, which is intended for insertion into Part 2 of the Bill (Digital verification services), creates the right for data subjects to use non-digital identity verification services as an alternative to digital verification services, thereby preventing digital verification from becoming mandatory in certain settings.

Clause 80

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 80 stand part of the Bill.

Clause 85

BARONESS BENNETT OF MANOR CASTLE

195A Clause 85, page 108, line 38, at end insert –

“(v) the energy and carbon intensity of the goods, services or digital content),”

Member's explanatory statement

This adds carbon and energy intensity to the information that can be required to be provided as “business data”

Clause 96

VISCOUNT CAMROSE

196 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

197 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 103

LORD HOLMES OF RICHMOND

197A After Clause 103, insert the following new Clause –

“Oversight of biometric technology use by the Information Commission

- (1) The Information Commission must establish a Biometrics Office.
- (2) The Biometrics Office is to be constituted by a committee of three appointed commissioners with relevant expertise.
- (3) It is the function of the Biometrics Office to –
 - (a) establish and maintain a public register of relevant entities engaged in processing the biometric data of members of the public;
 - (b) oversee and review the biometrics use of relevant entities;
 - (c) produce a Code of Practice for the use of biometric technology by registered parties, which must include –
 - (i) compulsory standards of accuracy and reliability for biometric technologies;
 - (ii) a requirement for the proportionality of biometrics use to be assessed prior to use and annually thereafter, and a procedure for such assessment;
 - (iii) a procedure for individual complaints about the use of biometrics by registered parties;
 - (d) receive and publish annual reports from all relevant entities, which includes the relevant entity’s proportionality assessment of their biometrics use;
 - (e) enforce registration and reporting by the issuing of enforcement notices and, where necessary, the imposition of fines for non-compliance with the registration and reporting requirements;
 - (f) ensure lawfulness of biometrics use by relevant entities, including by issuing compliance and abatement notices where necessary.
- (4) The Secretary of State may by regulations add to the responsibilities of the Biometrics Office.
- (5) Regulations made under subsection (4) are subject to the affirmative resolution procedure.
- (6) For the purposes of this Part, “relevant entity” means any organisation or body corporate (whether public or private) which processes biometric data as defined in Article 9 GDPR, other than where the biometric processing undertaken by the

organisation or body corporate is otherwise overseen by the Investigatory Powers Commissioner, because it is –

- (a) for the purposes of making or renewing a national security determination as defined by section 20(2) of the Protection of Freedoms Act 2012, or
- (b) for the purposes set out in section 20(6) of the Protection of Freedoms Act 2012.”

LORD HOLMES OF RICHMOND

197B After Clause 103, insert the following new Clause –

“Requirement to register with the Information Commission

- (1) Any relevant entity intending to process the biometric data of members of the public (including any sub-group of the public, such as employees of the private entity) for purposes other than those contained in section 20(2) and (6) of the Protection of Freedoms Act 2012 must register with the Information Commission prior to the deployment of the biometric technology.
- (2) An application for registration must include an explanation of the intended biometrics use, including an assessment of its proportionality and its extent.
- (3) All relevant entities must provide an annual report to the Biometrics Office addressing their processing of biometric data in the preceding year and their intended processing of biometrics in the following year.
- (4) Each annual report must contain a proportionality assessment of the relevant entity’s processing of biometric data in the preceding year and intended processing of biometric data in the following year.
- (5) Any relevant entity which processes biometric data without having registered with the Information Commission, or without providing annual reports to the Biometrics Office, is liable to an unlimited fine to be imposed by the Information Commission.”

LORD HOLMES OF RICHMOND

197C After Clause 103, insert the following new Clause –

“Private biometrics use prior to entry into force of this Act

Any relevant entity engaged in processing the biometric data of members of the public prior to the commencement of this Act must register with the Information Commission within 6 months of the date of commencement of this Act.”

Member's explanatory statement

This amendment creates a mechanism for the Information Commission to oversee biometric technology use by private parties. The Investigatory Powers Commissioner regime, as referred to in Clause 103, oversees the use by public bodies of biometric technology. With increasing use of biometric technology by private entities and corporations, this Clause introduces a scheme for oversight that extends to those real-world uses.

After Clause 108

VISCOUNT CAMROSE

198 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 109

LORD LUCAS
LORD CLEMENT-JONES
LORD BLACK OF BRENTWOOD

199 Clause 109, page 133, line 21, leave out “(2D)” and insert “(2F)”

LORD LUCAS
LORD CLEMENT-JONES
LORD BLACK OF BRENTWOOD

200 Clause 109, page 135, line 19, at end insert –

“(2E) Paragraph (1) does not prevent a person storing information, or gaining access to information stored, in the terminal equipment of a subscriber or user if –

- (a) the sole purpose of the storage or access is to enable the person to collect information for statistical purposes about the size and composition of the audience of the service with a view to generating audience measurement information,

- (b) any information that the storage or access enables the person to collect is not shared with any other person except for the purpose of enabling that other person to assist with generating audience measurement information,
 - (c) the subscriber or user is provided with clear and comprehensive information about the purpose of the storage or access, and
 - (d) the subscriber or user is given a simple means of objecting (free of charge) to the storage or access and does not object.
- (2F) In this paragraph, “statistical purposes” means the production of statistical results in aggregate form.”

LORD LUCAS
LORD CLEMENT-JONES
LORD BLACK OF BRENTWOOD

201 Clause 109, page 136, line 17, at end insert –

- “(f) to measure or verify the performance of advertising services delivered as part of the service requested to enable website owners to accurately charge for their advertising services.”

Member's explanatory statement

This amendment seeks to ensure that the technical storage of, or access to, information is considered strictly necessary if it would support the measurement or verification of the performance of advertising services to allow website owners to charge for their advertising services more accurately.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
LORD BLACK OF BRENTWOOD

202 Clause 109, page 137, line 9, leave out from beginning to end of line 16 on page 138

Member's explanatory statement

This amendment would leave out the proposed new regulation 6B of the Privacy and Electronic Communications Regulations (PEC Regulations), which would enable consent to be given, or an objection to be made, to cookies automatically.

LORD LUCAS
LORD CLEMENT-JONES

203 Clause 109, page 137, line 20 at end insert –

- “(2A) Where a user gives their consent or objection directly to the website operator, that consent or objection must override any previous consent or objection given automatically under paragraph (2).”

Member's explanatory statement

This amendment seeks to ensure that where someone has set a generalised choice (“yes” or “no”) via a centralised mechanism about websites’ use of cookies, as envisaged by this new Regulation, they can still express a specific and/or different choice for the particular site they are using. In that case, that specific choice is the one that will apply to their use of that site.

LORD LUCAS
LORD CLEMENT-JONES

204 Clause 109, page 137, line 34, at end insert –

“(ba) representatives of persons likely to be affected, and”

LORD LUCAS
LORD CLEMENT-JONES

205 Clause 109, page 137, line 39, at end insert –

“(7A) Before laying a draft statutory instrument under paragraph (7), the Secretary of State must carry out and publish –

(a) an assessment of the likely impact of implementing the regulations that sets out, in the Secretary of State’s opinion –

(i) the impact of making the regulations on competition, and

(ii) the legal effect of making the regulations on the application of these Regulations and the UK GDPR.

(b) the requirements under paragraph (1) must include that –

(i) the technology can capture and automatically communicate a user’s consent or objection and is sufficiently available and ready for use by website operators, relevant third parties, and website users,

(ii) the available technology functions effectively, accurately and reliably and is interoperable with relevant existing technology, and

(iii) the available technology functions in accordance with the relevant requirements set out in these Regulations and the UK GDPR that apply to the technology provider, the website operator or any third party that will receive or use the information given by that technology.”

Clause 112

VISCOUNT CAMROSE

206 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

207 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

208 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.

BARONESS JONES OF WHITCHURCH

208A After Clause 112, insert the following new Clause –

“Prohibition on unsolicited calls regarding personal injury claims

- (1) The PEC Regulations are amended as follows.
- (2) In regulation 21 (calls for direct marketing purposes), in paragraph (6), leave out “or 21B” and insert “21B or 22A”.
- (3) In regulation 22 (use of electronic mail for direct marketing purposes), after paragraph (4) insert –
 - “(5) Paragraph (1) does not apply to a case falling within regulation 22A.”
- (4) After regulation 22 insert –

“22A Unsolicited calls and use of electronic mail by claims management companies for personal injury claims

- (1) A person must not –
 - (a) use, nor instigate the use of, a public electronic communications service for the purpose of making unsolicited telephone calls for direct marketing, and
 - (b) transmit, nor instigate the transmission of, unsolicited communications for the purpose of direct marketing by means of electronic mail or otherwise,
 if the conditions in subsection (2) are met.
- (2) The conditions are that –
 - (a) the person making or instigating the call or transmitting or instigating the use of electronic mail –
 - (i) is acting on behalf of a claims management service, or
 - (ii) does so with a view to providing information to a claims management service, and
 - (c) the purpose of the call or the electronic mail is to engage a consumer in commencing a claim for a personal injury.
- (3) In this regulation –

“claims management service” has the meaning given by section 419A of the Financial Services and Markets Act 2000;

“unsolicited” means an approach which has not been specifically requested, even if a person has consented to receive marketing information;

“claim for a personal injury” means proceedings in which there is a claim for damages in respect of personal injuries to the claimant or any other person or in respect of a person’s death, and

“personal injuries” includes any disease and any impairment of a person’s physical or mental condition.”

Member's explanatory statement

This new Clause seeks to implement an outright ban on cold calling and spam texts from claims management companies for personal injury claims. Claims management companies would only be allowed to contact people about personal injury claims if they have specifically requested to be contacted about a potential claim.

Clause 113

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

209 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
LORD CLEMENT-JONES

210 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.

Clause 114

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

The above-named Lords give notice of their intention to oppose the Question that Clause 114 stand part of the Bill.

Member's explanatory statement

This amendment would remove the Clause which would enable direct marketing for the purposes of democratic engagement.

Clause 115

BARONESS JONES OF WHITCHURCH

Baroness Jones of Whitchurch gives notice of her intention to oppose the Question that Clause 115 stand part of the Bill.

Member's explanatory statement

This amendment is consequential on an amendment to leave out Clause 114. Clause 115 would become redundant if Clause 114 were removed from the Bill.

Clause 116BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

211 Clause 116, page 145, line 12, at end insert –

“(2A) A provider of a public electronic communications service or network is not required to intercept or examine the content of any communication in order to comply with their duty under this regulation.”

Member's explanatory statement

This amendment seeks to clarify that a public electronic communications service or network is not required to intercept or examine the content of any communication in order to comply with their duty to notify the Commissioner of unlawful direct marketing.

VISCOUNT CAMROSE

212 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

213 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

- 214** 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.

BARONESS JONES OF WHITCHURCH

- 215** Clause 116, page 147, line 23, at end insert –

“(2A) In regulation 1 –

- (a) after “shall”, insert “save for regulation 26A”;
- (b) at end, insert –

“(2) Regulation 26A comes into force six months after the Commissioner has published guidance under regulation 26C (Guidance in relation to regulation 26A).”

Member's explanatory statement

This amendment would provide for the new regulation 26A, Duty to notify Commissioner of unlawful direct marketing, not to come into force until six months after the Commissioner has published guidance in relation to that duty.

Clause 120

VISCOUNT CAMROSE

- 216** 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

217 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.

After Clause 125

BARONESS YOUNG OF OLD SCONE
THE LORD BISHOP OF OXFORD
BARONESS PARMINTER

218 After Clause 125, insert the following new Clause –

“Disclosure of climate and nature information to improve public service delivery

After section 35 of the Digital Economy Act 2017, insert –

“35A Disclosure of climate and nature information to improve public service delivery

- (1) When making significant announcements, Ministers and public authorities must, in an accurate and timely manner and in a machine-readable form, publicly disclose the potential current and future impact on specified matters to improve public service delivery.
- (2) The Secretary of State must issue guidance in respect of the format of the information provided under subsection (1).
- (3) In this section –

“significant announcements” means –

- (a) the laying of primary legislation before Parliament,
- (b) announced changes to the timing, level and scope of Government targets, or
- (c) announced Government contracts or spending on infrastructure with a value of more than £500m,
- (d) policies which may have, or have the potential to have, a significant impact on specified matters.

“specified matters” means –

- (a) United Kingdom greenhouse gas emissions as defined in the Climate Change Act 2008,
- (b) management of the risks of the current and predicted impacts of climate change in the United Kingdom identified in the most recent report under section 56 of the Climate Change Act 2008,
- (c) environment targets set using the powers in sections 1 to 3 of the Environment Act 2021.”

Member's explanatory statement

This amendment would require Ministers and public authorities such as regulators to disclose analysis of the potential current and future impact of announcements, including legislation, changes in targets and large contracts on UK climate change mitigation targets, adaptation to climate impacts and nature targets.

Clause 128

BARONESS KIDRON
LORD ANDERSON OF IPSWICH
BARONESS CHAKRABARTI
LORD CLEMENT-JONES

The above-named Lords give notice of their intention to oppose the Question that Clause 128 stand part of the Bill.

Member's explanatory statement

Removing Clause 128 seeks to probe whether the extent to which UK citizens may have their bank accounts monitored irrespective of any wrongdoing, and the potential attendant risk of outcomes based on false conclusions reached by an automated system over their financial activity.

After Clause 128

LORD SIKKA

219 After Clause 128, insert the following new Clause—

“Power to require information for fraud prevention

The Secretary of State may by regulations subject to the affirmative resolution procedure obtain information about bank accounts receiving any money from the public purse for the purposes of fraud prevention.”

Member's explanatory statement

This probing amendment seeks to expand the powers of the Secretary of State to obtain information from bank accounts for social security purposes to the bank accounts of any person receiving any money from the public purse for the purpose of fraud prevention.

Schedule 11

BARONESS SHERLOCK

220 Schedule 11, page 245, line 1, leave out from “only” to “relevant” in line 3 and insert “in cases where there are grounds to suspect that”

Member's explanatory statement

This amendment, alongside others to paragraph 1 of Schedule 11 in the name of Baroness Sherlock, would reframe the Secretary of State’s power to give account information notices, making clear that the power should only be used in cases where there is suspicion that benefits are not being paid in accordance with enactments and rules of law relating to those benefits.

BARONESS SHERLOCK

221 Schedule 11, page 245, line 3, after “are” insert “not”

Member's explanatory statement

This amendment, alongside others to paragraph 1 of Schedule 11 in the name of Baroness Sherlock, would reframe the Secretary of State's power to give account information notices, making clear that the power should only be used in cases where there is suspicion that benefits are not being paid in accordance with enactments and rules of law relating to those benefits.

BARONESS SHERLOCK

222 Schedule 11, page 245, line 4, after “have” insert “not”

Member's explanatory statement

This amendment, alongside others to paragraph 1 of Schedule 11 in the name of Baroness Sherlock, would reframe the Secretary of State's power to give account information notices, making clear that the power should only be used in cases where there is suspicion that benefits are not being paid in accordance with enactments and rules of law relating to those benefits.

BARONESS SHERLOCK

222A Schedule 11, page 245, line 40, after “accounts” insert “, unless the person who holds the account—

- (a) is not themselves in receipt of a relevant benefit, and
- (b) holds the account into which the benefit is (or is to be) paid, or has been paid, on behalf of someone who cannot manage their own affairs because they are mentally incapable or severely disabled.”

Member's explanatory statement

This amendment aims to make clear that the personal accounts of a benefit claimant's appointee are not to be considered as linked accounts for the purposes of fulfilling account information notices. Appointees act on behalf of a claimant who is unable to manage their own affairs and they are appointed by the administrator of the relevant benefit.

BARONESS SHERLOCK

223 Schedule 11, page 246, leave out lines 14 to 18

Member's explanatory statement

This amendment would remove from paragraph 3 of inserted Schedule 3B a provision which could require the recipient of an account information notice to provide legible and intelligible copies of information recorded otherwise than in a legible form.

BARONESS SHERLOCK

224 Schedule 11, page 247, leave out lines 13 to 18 and insert –

“5 Information provided to the Secretary of State in response to a notice may only be used to determine whether benefits have been paid in accordance with the enactments and rules of law relating to those benefits.”

Member's explanatory statement

This amendment replaces paragraph 5 of inserted Schedule 3B and makes clear that information provided to the Secretary of State may only be used for the narrow purpose of determining whether benefits have been paid in accordance with enactments and rules of law relating to those benefits.

BARONESS SHERLOCK

225 Schedule 11, page 247, line 22, leave out “may” and insert “must”

Member's explanatory statement

This amendment would make it a requirement for the Secretary of State to issue a code of practice in connection with the use of account information notices.

BARONESS SHERLOCK

226 Schedule 11, page 247, line 24, leave out “may” and insert “must”

Member's explanatory statement

This amendment would ensure that a code of practice contains all of the provisions outlined in paragraph 6(2) of Schedule 11.

BARONESS SHERLOCK

227 Schedule 11, page 247, line 26, at end insert “, including the criteria by which the Secretary of State will determine whether it is reasonable and proportionate to specify accounts in a notice”

Member's explanatory statement

This amendment would ensure that a code of practice includes the criteria to be used by the Secretary of State in determining whether to issue account information notices.

BARONESS SHERLOCK

228 Schedule 11, page 247, line 32, leave out “If the Secretary of State decides to issue a code of practice,”

Member's explanatory statement

This amendment is consequential on another in the name of Baroness Sherlock which makes the publication of a code of practice compulsory.

BARONESS SHERLOCK

229 Schedule 11, page 247, line 33, leave out “first”

Member's explanatory statement

This amendment is consequential on another in the name of Baroness Sherlock which makes the publication of a code of practice compulsory.

BARONESS SHERLOCK

230 Schedule 11, page 247, line 34, at end insert “for consultation by –

- (a) the Social Security Advisory Committee,
- (b) organisations that will have to comply with notices, and
- (c) any other persons that the Secretary of State considers appropriate.”

Member's explanatory statement

This amendment would require consultation on the draft code of conduct, with consultees to include the Social Security Advisory Committee and organisations that would have to comply with account information notices.

BARONESS SHERLOCK

231 Schedule 11, page 248, leave out lines 2 and 3 and insert –

- “(5) The code of practice, or any revision to it, may not come into force until a draft been laid before, and approved by a resolution of, each House of Parliament.
- (6) The Secretary of State may withdraw a code of practice but, unless a code of practice is in force, may not issue any new notices.”

Member's explanatory statement

This amendment would require the code of practice (and any revisions to it) to be approved by a resolution of both Houses of Parliament. It would also retain the Secretary of State’s ability to withdraw a code of practice, while making clear that the ability to issue notices would lapse if no code is in force.

BARONESS SHERLOCK

232 Schedule 11, page 248, leave out lines 4 to 15

Member's explanatory statement

This amendment would remove current provisions around revisions to the code of practice, as this is now dealt with in an earlier amendment in the name of Baroness Sherlock to Schedule 11.

BARONESS SHERLOCK

233 Schedule 11, page 248, line 24, at end insert –

“PART 2A

ANNUAL REPORTING

- 8A (1) As soon as reasonably practicable after the end of each financial year, the Secretary of State must prepare and lay before Parliament a report regarding the use of account information notices under paragraph 1 of this Schedule.
- (2) A report under sub-paragraph (1) must outline, for the whole financial year –
- (a) the number of account information notices issued,
 - (b) the number of account holders whose information was obtained as a result of the use of account information notices,
 - (c) the number of cases in which relevant benefits were identified as being paid otherwise than in accordance with the enactments and rules of law relating to those benefits, and
 - (d) the number of cases in which individuals’ personal data was obtained but no fraud or error was identified.
- (3) A report under sub-paragraph (1) must also outline whether, in the view of the Secretary of State –
- (a) the breadth and scope of account information notices issued during the financial year was proportionate,
 - (b) the extent to which account information notices provided an effective means of ensuring that relevant benefits are paid in accordance with the enactments and rules of law relating to those benefits, and
 - (c) whether the use of account information notices will continue into the next financial year.”

Member's explanatory statement

This amendment would insert a new Part into inserted Schedule 3B, to provide for annual reporting to Parliament on the use of account information notices. As well as requiring the provision of statistics around the use of such notices during the previous financial year, the amendment would also compel the Secretary of State to outline their views on the proportionality and effectiveness of notices.

BARONESS SHERLOCK

234 Schedule 11, page 252, line 22, leave out from “relevant” to end of line 23 and insert “working-age social security benefit to be specified by the Secretary of State in regulations;”

Member's explanatory statement

This amendment alters the definition of “relevant benefit” for the purposes of Schedule 11 and aims to remove pensions from the scope of the Bill’s social security powers.

BARONESS SHERLOCK

235 Schedule 11, page 252, line 28, at end insert –

“16A A statutory instrument containing regulations under paragraph 16(a) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

Member's explanatory statement

This amendment would require regulations specifying the working-age benefits covered by the Bill's social security powers to be approved by Parliament.

BARONESS KIDRON
BARONESS CHAKRABARTI
LORD ANDERSON OF IPSWICH
LORD KAMALL

The above-named Lords give notice of their intention to oppose the Question that Schedule 11 be the Eleventh Schedule to the Bill.

Member's explanatory statement

This is consequential to removing Clause 128.

Clause 129

VISCOUNT CAMROSE

236 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
BARONESS KIDRON

237 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.

Before Clause 130

BARONESS JONES OF WHITCHURCH

238 Before Clause 130, insert the following new Clause –

“Definition of “biometric data”

In paragraph 1 of Article 9 of the UK GDPR, omit “for the purpose of uniquely identifying a natural person”.”

Member's explanatory statement

This new Clause would amend the UK General Data Protection Regulation to extend the protections currently in place for biometric data for identification to include biometric data for the purpose of classification.

Clause 130

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 130 stand part of the Bill.

Member's explanatory statement

Removing this Clause would prevent UK law enforcement agencies holding biometric data received from overseas law enforcement agencies in a pseudonymised format.

Clause 131

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 131 stand part of the Bill.

Member's explanatory statement

Removing this Clause would prevent UK law enforcement agencies holding biometric data received from overseas law enforcement agencies in a pseudonymised format.

Clause 132

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 132 stand part of the Bill.

Member's explanatory statement

Removing this Clause would prevent UK law enforcement agencies holding biometric data received from overseas law enforcement agencies in a pseudonymised format.

Clause 133

BARONESS JONES OF WHITCHURCH

239 Clause 133, page 169, line 10, at end insert –

“(2A) After section 25, insert –

“25A Review of form in which registers are to be kept

- (1) The Secretary of State must commission a review of the provisions of this Act and of related legislation, with a view to the creation of a single digital register of births and deaths.
- (2) The review must consider and make recommendations on the effect of the creation of a single digital register on –
 - (a) fraud,
 - (b) data collection, and
 - (c) ease of registration.
- (3) The Secretary of State must lay the conclusions of their review before Parliament within six months of this section coming into force.”

Member's explanatory statement

This amendment would insert a new section into the Births and Deaths Registration Act 1953 requiring a review of relevant legislation, with consideration of creating a single digital register for registered births and registered deaths and recommendations on the effects of such a change on reducing fraud, improving data collection and streamlining digital registration.

Clause 138

VISCOUNT CAMROSE

240 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

241 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

242 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

243 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

244 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

- 245 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

- 246 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

- 247 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

248 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

249 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).

After Clause 142

BARONESS JONES OF WHITCHURCH
THE LORD BISHOP OF LONDON
LORD CLEMENT-JONES

250 After Clause 142, insert the following new Clause –

“Review of notification of changes of circumstances legislation

- (1) The Secretary of State must commission a review of the operation of the Social Security (Notification of Changes of Circumstances) Regulations 2010 (S.I. 2010/444).
- (2) In conducting the review, the designated reviewer must –
 - (a) consider the current operation and effectiveness of the legislation;

- (b) identify any gaps in its operation and provisions;
 - (c) consider and publish recommendations as to how the scope of the legislation could be expanded to include non-public sector, voluntary and private sector holders of personal data.
- (3) In undertaking the review, the reviewer must consult –
- (a) specialists in data sharing;
 - (b) people and organisations who campaign for the interests of people affected by the legislation;
 - (c) people and organisations who use the legislation;
 - (d) any other persons and organisations the reviewer considers appropriate.
- (4) The Secretary of State must lay a report of the review before Parliament within six months of the day on which this Act is passed.”

Member's explanatory statement

This new Clause would require a review of the operation of the “Tell Us Once” programme, which seeks to provide simpler mechanisms for citizens to pass information regarding births and deaths to government, and consideration of whether the progress of “Tell Us Once” could be extended to non-public sector holders of data.

BARONESS KIDRON
LORD ARBUTHNOT OF EDROM
LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

251 After Clause 142, insert the following new Clause –

“Evidence from computer records

- (1) In any proceedings, a statement containing information in a document produced by a computer is not to be admissible as evidence of any fact stated therein unless it is shown –
- (a) that there are no reasonable grounds for believing that the information contained in the statement is inaccurate because of improper use of the computer,
 - (b) that at all material times the computer was operating properly, or if not, that any respect in which it was not operating properly or was out of operation was not such as to materially affect the production of the document or the accuracy of the information it contains, and
 - (c) that any relevant conditions specified in rules of court under subsection (2) below are satisfied.
- (2) Provision may be made by rules of court requiring that in any proceedings where it is desired to give a statement in evidence by virtue of this section such information concerning the statement as may be required by the rules must be provided in such form and at such time as may be so required.”

Member's explanatory statement

This probing amendment reinstates the substantive provisions of section 69 of the Police and Criminal Evidence Act 1984. In light of the Post Office Horizon scandal, this would revoke the current assumption that the information provided by computers is always accurate.

LORD CLEMENT-JONES
 BARONESS BENNETT OF MANOR CASTLE
 LORD WATSON OF WYRE FOREST
 LORD MAUDE OF HORSHAM

252 After Clause 142, insert the following new Clause –

“Open address file

- (1) The Secretary of State must regularly publish a list of UK addresses as open data to an approved data standard.
- (2) “Regularly publish” means on at least a monthly basis.
- (3) “UK addresses” means an authoritative list of UK address data as maintained by local authorities including, but not limited to –
 - (a) building number, name and street address,
 - (b) geographic coordinates, and
 - (c) a unique identifier.
- (4) “Open data” means data under a licence whereby any person can freely access, use, modify, and share the data for any purpose, subject, at most, to requirements that preserve provenance and openness.
- (5) “Approved data standard” means such written standards, containing technical specifications or other requirements in relation to the data, or in relation to providing or processing the data, as may be published by an appropriate authority from time to time.”

Member's explanatory statement

This amendment would require a list of UK addresses to be made freely available for reuse.

Clause 143

VISCOUNT CAMROSE

253 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

LORD CLEMENT-JONES

- 254 Schedule 15, page 278, line 17, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

- 255 Schedule 15, page 278, leave out lines 30 to 33 and insert –
- “(2) The non-executive members are appointed by His Majesty by Letters Patent on the recommendation of the person who chairs the relevant Parliamentary committee.
 - (2A) At least two non-executive members must be appointed for the specific task of overseeing regulatory complaints and the rights and freedoms of data subjects.”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 256 Schedule 15, page 278, line 33, at end insert –
- “(2A) A person may not be appointed under sub-paragraph (2) unless the Science, Innovation and Technology Committee of the House of Commons has endorsed the proposed appointment.”

Member's explanatory statement

This amendment would ensure that non-executive members of the Information Commission may not be appointed unless the Science, Innovation and Technology Committee of the House of Commons has endorsed the Secretary of State's proposed appointee.

LORD CLEMENT-JONES

- 257 Schedule 15, page 279, line 5, leave out “Secretary of State” and insert “relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

258 Schedule 15, page 279, leave out lines 10 and 11 and insert—

- “(6) The non-executive members must exercise the powers conferred on the non-executive members by this paragraph so as to secure that the number of non-executive members of the Commission is, so far as practicable, at all times greater than the number of executive members.”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

259 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.

LORD CLEMENT-JONES

260 Schedule 15, page 279, leave out lines 14 to 19

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 261** Schedule 15, page 279, line 21, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 262** Schedule 15, page 279, line 34, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 263** Schedule 15, page 279, line 36, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 264** Schedule 15, page 279, line 38, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 265** Schedule 15, page 280, line 5, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 266 Schedule 15, page 280, line 15, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 267 Schedule 15, page 280, line 24, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 268 Schedule 15, page 280, line 25, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 269 Schedule 15, page 281, line 3, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 270 Schedule 15, page 281, line 9, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 271 Schedule 15, page 281, line 12, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 272 Schedule 15, page 281, line 16, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 273 Schedule 15, page 281, line 17, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 274 Schedule 15, page 281, line 24, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 275 Schedule 15, page 281, line 26, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 276 Schedule 15, page 281, line 32, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 277 Schedule 15, page 283, line 33, at end insert—

- “(7) One member of the Commission must have a particular focus upon the specialities of—
- (a) closed circuit television and surveillance cameras;
 - (b) biometrics, DNA, genomics and proteomics.”

Member's explanatory statement

This amendment would require the new Information Commission to have a Commissioner particularly focussed on certain topics.

LORD CLEMENT-JONES

- 278 Schedule 15, page 286, line 21, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 279 Schedule 15, page 286, line 26, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 280 Schedule 15, page 286, line 34, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 281 Schedule 15, page 286, line 37, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

LORD CLEMENT-JONES

- 282 Schedule 15, page 287, line 8, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

VISCOUNT CAMROSE

- 283 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.

LORD CLEMENT-JONES

- 284** Schedule 15, page 287, line 31, leave out “Secretary of State” and insert “person who chairs the relevant Parliamentary committee”

Member's explanatory statement

This amendment seeks to remove the powers of the Secretary of State to intervene with the functioning of the Commissioner and transfers the responsibility to appoint the Commissioner from government to Parliament.

VISCOUNT CAMROSE

- 285** 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 147

LORD CLEMENT-JONES
LORD VAUX OF HARROWDEN

The above-named Lords give notice of their intention to oppose the Question that Clause 147 stand part of the Bill.

Member's explanatory statement

Removing this Clause would remove provisions in the Bill that abolish the office of the Biometrics and Surveillance Camera Commissioner.

Clause 148

LORD CLEMENT-JONES
LORD VAUX OF HARROWDEN

The above-named Lords give notice of their intention to oppose the Question that Clause 148 stand part of the Bill.

Member's explanatory statement

Removing this Clause would remove provisions in the Bill that abolish the office of the Biometrics and Surveillance Camera Commissioner.

Clause 149

BARONESS JONES OF WHITCHURCH

286 Clause 149, page 187, line 19, leave out “, which allows or confirms the unique identification of that individual,”

Member's explanatory statement

This amendment would amend the definition of “biometric data” for the purpose of the oversight of law enforcement biometrics databases so as to extend the protections currently in place for biometric data for identification to include biometric data for the purpose of classification.

LORD CLEMENT-JONES
LORD VAUX OF HARROWDEN

The above-named Lords give notice of their intention to oppose the Question that Clause 149 stand part of the Bill.

Member's explanatory statement

Removing this Clause would remove provisions in the Bill that abolish the office of the Biometrics and Surveillance Camera Commissioner.

After Clause 149

LORD CLEMENT-JONES

287 After Clause 149, insert the following new Clause –

“Provision about implementing article 80(2) of the UK GDPR

In section 190(1) of the Data Protection Act 2018 leave out “After the report under section 189(1) is laid before Parliament, the Secretary of State may” and insert “The Secretary of State must, within three months of the passage of the Data Protection and Digital Information Act 2023,””

Member's explanatory statement

This new Clause would require the Secretary of State to exercise powers under section 190 of the Data Protection Act 2018 to allow public interest organisations to raise data protection complaints on behalf of individuals generally, without the need to obtain the authorisation of each individual being represented.

LORD CLEMENT-JONES

288 After Clause 149, insert the following new Clause –

“Review of the impact of the Act on anonymisation and the identifiability of data subjects

- (1) Within six months of the day on which this Act is passed, the Secretary of State must lay before Parliament the report of an assessment of the impact of the measures in the Act on anonymisation and the identifiability of data subjects in the United Kingdom.
- (2) The report must include a comparison between the rights afforded to data subjects under this Act with those afforded to data subjects by the Commission Regulation (EU) 2016/679 (General Data Protection Regulation).”

Member's explanatory statement

This amendment would require the Secretary of State to conduct an impact assessment of the measures in the Act on anonymisation and identifiability of data subjects, including a comparison between the rights afforded to data subjects in this eventual Act and those in the EU General Data Protection Regulation.

LORD CLEMENT-JONES

289 After Clause 149, insert the following new Clause –

“Digital identity theft

- (1) A person commits an offence of digital identity theft if the person –
 - (a) without permission obtains personal or sensitive information such as passwords, ID numbers, credit card numbers or national insurance numbers relating to an individual, or
 - (b) uses personal or sensitive information under paragraph (a) to impersonate that individual and act in their name to carry out any digital transaction.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

BARONESS KIDRON
LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH
BARONESS HARDING OF WINSCOMBE

290 After Clause 149, insert the following new Clause –

“Protection of children

- (1) Nothing in this Act is to be construed as reducing, minimising or undermining existing standards and protections of children under the 2018 Act.
- (2) In exercising functions or applying or interpreting the provisions in this Act, the Secretary of State, the Information Commissioner and data controllers and processors must give due consideration to –
 - (a) children’s interests and fundamental rights and freedoms as set out in the United Nations Convention on the Rights of the Child and General Comment 25 on Children’s Rights in relation to the Digital Environment, and
 - (b) the fact established in the 2018 Act that children are entitled to a higher standard of protection than adults with regard to their personal data.”

Member's explanatory statement

This amendment enshrines the Government commitment made by Ministers at second reading in the Commons to maintaining existing standards of data protection for children in the 2018 Act.

BARONESS KIDRON
LORD CLEMENT-JONES
BARONESS HARDING OF WINSCOMBE
BARONESS JONES OF WHITCHURCH

291 After Clause 149, insert the following new Clause –

“Offence to use personal data or digital information to create digital models or files that facilitate the creation of AI or computer generated child sexual abuse material

- (1) A person commits an offence if they –
 - (a) collect, scrape, possess, distribute or otherwise process personal data or digital information with the intention of using it, or attempting to use it, to create or train a digital model which enables the creation of AI or computer generated child sexual abuse material or priority illegal content;
 - (b) use personal data or digital information to create, train or distribute or attempt to create, train or distribute a digital file or model that has been trained on child sexual abuse material or priority illegal content, or which enables the creation of artificial intelligence or computer generated child sexual abuse material or priority illegal content;
 - (c) collate, or attempt to collate, digital files or models based on personal data or digital information that, when combined, enable the creation of AI or computer generated child sexual abuse material or priority illegal content;

- (d) possess, or attempt to possess, a digital file or model based on personal data or digital information with the intention of using it to produce or gain access to AI or computer generated child sexual abuse material or priority illegal content.
- (2) For the purposes of this section, “artificial intelligence or computer generated child sexual abuse material or primary priority illegal content” includes images, videos, audio including voice, chatbots, material generated by large language models, written text, computer file and avatars.
- (3) A person who commits an offence under subsection (1) is liable to the sentences set out in section 160 of the Criminal Justice Act 1988 and section 6 of the Protection of Children Act 1978 for the equivalent offences.
- (4) For the purposes of this section, “priority illegal content” is content that meets the definition of “priority illegal content” set out in section 59 of the Online Safety Act 2023.”

Member's explanatory statement

This amendment seeks to make the files trained on or trained to create “Child Sex Abuse Material” illegal.

LORD CLEMENT-JONES

292 After Clause 149, insert the following new Clause –

“Review of the implications of abolishing the Office of the Biometrics and Surveillance Camera Commissioner

- (1) The Secretary of State must commission and publish an independent review of the implications of abolishing the Office of the Biometrics and Surveillance Camera Commissioner.
- (2) The Secretary of State must lay a report of the review before Parliament within six months of the day on which this Act is passed.”

Member's explanatory statement

This amendment would require the Secretary of State to commission and publish an independent review of the implications of abolishing the Office of the Biometrics and Surveillance Camera Commissioner.

LORD CLEMENT-JONES

293 After Clause 149, insert the following new Clause –

“Deepfakes depicting sexual offences or activity without consent

- (1) It is an offence for a person to intentionally create, alter, or otherwise generate a deepfake depicting –
 - (a) a Child Sexual Exploitation and Abuse (CSEA) offence; or
 - (b) an intimate act.

- (2) It is an offence for a person to intentionally create, alter, or otherwise generate a CSEA deepfake.
- (3) A person is not guilty of an offence by virtue of subsection (1)(b) if they show the person or persons, being over the age of 18, depicted in the deepfake provided consent for the creation, alteration or generation of the deepfake.
- (4) Offences under this section are punishable either on conviction on indictment or on summary conviction.
- (5) A person convicted on indictment of an offence under this section is liable to imprisonment for a term of not more than ten years, or to a fine not exceeding the prescribed sum for the purposes of this Act or to both.
- (6) A person convicted summarily of an offence under this section is liable—
 - (a) to imprisonment for a term not exceeding six months; or
 - (b) to a fine not exceeding the prescribed sum for the purposes of this Act.
- (7) The Secretary of State must by regulations prescribe the sum for the purposes subsections (5) and (6).
- (8) Regulations made under subsection (7) are subject to the affirmative procedure.”

Member's explanatory statement

This amendment would make it an offence to intentionally generate a deepfake depicting sexual offences or activity without consent.

LORD CLEMENT-JONES

294 After Clause 149, insert the following new Clause—

“Deepfakes for the purpose of committing fraud

- (1) It is an offence for a person to create, alter or otherwise generate a deepfake where the person knows or suspects (or has reasonable grounds for knowing or suspecting) that the deepfake will, or is likely to, be used to carry out activity which would breach section 2 of the Fraud Act 2006 or otherwise constitute the common law offence of fraud.
- (2) Offences under this section are punishable either on conviction on indictment or on summary conviction.
- (3) A person convicted on indictment of an offence under this section is liable to imprisonment for a term of not more than five years, or to a fine not exceeding the prescribed sum for the purposes of this Act or to both.
- (4) A person convicted summarily of an offence under this section is liable—
 - (a) to imprisonment for a term not exceeding six months; or
 - (b) to a fine not exceeding the prescribed sum for the purposes of this Act.
- (5) The Secretary of State must by regulations prescribe the sum for the purposes subsections (3) and (4).

- (6) Regulations made under subsection (5) are subject to the affirmative procedure.”

Member's explanatory statement

This amendment would make it an offence for a person to generate a deepfake for the purpose of committing fraud.

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

295

After Clause 149, insert the following new Clause –

“Offence of creating or sharing political deepfakes

- (1) A person (A) commits an offence if –
 - (a) A sends a communication by electronic means which consists of content –
 - (i) generated by artificial intelligence, and
 - (ii) purporting to be a genuine statement from a political figure; and
 - (b) A’s act was intended to create the impression that the political figure has said or done something that is not based in fact.
- (2) In this section “political figure” means a person who –
 - (a) holds public office,
 - (b) is, during a regulated campaign period, a candidate for public office, or
 - (c) has, outside of a regulated campaign period, publicly stated their intention to stand for public office.
- (3) The Secretary of State may by regulations introduce exemptions to the offence under subsection (1).
- (4) In making regulations under subsection (3), the Secretary of State must have due regard to the public interest in balancing freedom of speech while preserving the integrity of elections in the United Kingdom.
- (5) Regulations under subsection (3) are subject to the affirmative procedure.
- (6) A person who commits an offence under subsection (1) is liable –
 - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine (or both);
 - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
 - (c) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).
- (7) In Schedule 7 of the Online Safety Act 2023, after paragraph 39 insert –

“Election interference

40 An offence under section (*Offence of creating or sharing political deepfakes*) of the Data Protection and Digital Information Act 2024 (*offence of creating or sharing political deepfakes*).”

LORD CLEMENT-JONES

295A After Clause 149, insert the following new Clause –

“Duties on developers and persons providing cloud computing platforms

- (1) A person developing software or a computer program capable of creating, altering or otherwise generating deepfakes must –
 - (a) ensure the software or computer program includes measures to prevent it being used to create, alter or otherwise generate deepfakes which would be an offence under this Act;
 - (b) take reasonable steps to monitor the use of that software or computer program by third parties; and
 - (c) where that person knows or suspects (or has reasonable grounds for knowing or suspecting) a third party is using that software or program to create, alter or otherwise generate deepfakes, to take reasonable steps to revoke access.
- (2) A person providing a cloud computing platform for the development of software or a computer program capable of creating, altering or otherwise generating deepfakes must –
 - (a) take measures to prevent that platform being used to create, alter or otherwise generate deepfakes which would be an offence under this Act;
 - (b) take reasonable steps to monitor the use of that platform by third parties; and
 - (c) where that person knows or suspects (or has reasonable grounds for knowing or suspecting) a third party is using that platform to create, alter or otherwise generate deepfakes, to take reasonable steps to revoke access.
- (3) The Secretary of State may issue guidance for the purposes of complying with this section.
- (4) A person developing software or a computer program capable of creating, altering or otherwise generating deepfakes must prepare an annual report setting out how they have complied with subsection (1) and had regard to any guidance issued under subsection (3).
- (5) A person providing a cloud computing platform for the development of software or a computer program capable of creating, altering or otherwise generating deepfakes must prepare an annual report setting out how they have complied with subsection (2) and had regard to any guidance issued under subsection (3).”

LORD CLEMENT-JONES

295B After Clause 149, insert the following new Clause –

“Service Provider duties

- (1) A person (P) who provides software or a computer program capable of creating, altering or otherwise generating deepfakes must –

- (a) establish and maintain policies, controls and procedures designed to ensure that the software or computer program is not used to create, alter or otherwise generate deepfakes which would be an offence under this Act;
 - (b) monitor the use of the software or computer program by third parties; and
 - (c) where P knows or suspects (or has reasonable grounds for knowing or suspecting) a third party is using the software or computer program to create, alter or otherwise generate deepfakes which would be an offence under this Act, to take steps to revoke access.
- (2) A person (P) who provides a digital platform service must –
- (a) establish and maintain policies, controls and procedures designed to ensure that the digital platform service is not used to disseminate deepfakes which would be an offence under this Act;
 - (b) establish and maintain policies, controls and procedures designed to ensure that the digital platform service is not used to disseminate software or computer programs capable of creating, altering or otherwise generating deepfakes which would be an offence under this Act;
 - (c) monitor the use of the software, digital platform service or computer program by third parties; and
 - (d) where P knows or suspects (or has reasonable grounds for knowing or suspecting) a third party is using the digital platform to disseminate –
 - (i) deepfakes which would be an offence under this Act; or
 - (ii) software or computer programs capable of creating, altering or otherwise generating deepfakes which would be an offence under this Act,
 to take steps to revoke access.
- (3) The Secretary of State may issue guidance for the purposes of complying with this section.
- (4) A person providing software or a computer program capable of creating, altering or otherwise generating deepfakes must prepare an annual report setting out how they have complied with subsection (1) and had regard to any guidance issued under subsection (3).
- (5) A person providing a digital platform service must prepare an annual report setting out how they have complied with subsection (2) and had regard to any guidance issued under subsection (3).”

LORD CLEMENT-JONES

295C After Clause 149, insert the following new Clause –

“General duties of OFCOM under section 3 of the Communications Act 2003

- (1) Section 3 of the Communications Act 2003 (general duties of OFCOM) is amended in accordance with subsections (2) and (3).

- (2) In subsection (2), after paragraph (g) insert—
 - “(h) the adequate protection of citizens from harm presented by deepfakes.”
- (3) In subsection (14), at the appropriate place insert—

““deepfake” has the meaning given by section (*Interpretation of Part 5*) of the Data Protection and Digital Information Act 2024.””

LORD CLEMENT-JONES

295D After Clause 149, insert the following new Clause—

“Interpretation of Part 5

- (1) In this Part—
 - “cloud computing platform” means a product or service made available to the public that provides processing, storage, networks, or other fundamental computing resources with which a consumer is able to deploy or run software
 - “create” means taking steps to produce or distribute but excludes mere possession;
 - “deepfake” means any image, video or audio recording generated or altered through the use of computer machine learning to depict a person who is identifiable or event which would falsely appear to another person to be an authentic or truthful imitation and, without limitation, includes any other image, video or audio recording pursuant to an order under subsection (2);
 - “person” includes (in addition to an individual and a body of persons corporate or unincorporate) any organisation or association of persons;
- (2) The Secretary of State may by regulations—
 - (a) amend the definition of deepfake to add a new type of image, video, or audio recording; and
 - (b) make further provision, or amend or repeal existing provision made under paragraph (a), in connection with that definition.
- (3) The Secretary of State may make regulations under this section only where it can be reasonably determined that such order does not affect or lower the protections against deepfakes on the date this Act comes into force.
- (4) A statutory instrument made under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

LORD CLEMENT-JONES

295E After Clause 149, insert the following new Clause –

“Meaning of “digital platform service”

- (1) In this Part “digital platform service” means a service or dissociable section of a service provided by means of an electronic communications network where –
 - (a) the purpose of the service or of the dissociable section of the service is the provision of text, images, videos, audio recordings, software or computer programs to members of the public;
 - (b) the person providing the service or of the dissociable section of the service –
 - (i) does not have general control over what text, images, videos, audio recordings, software or computer programs are available on it, but
 - (ii) does have general control over the manner in which the text, images, videos, audio recordings, software or computer programs are organised on it (and in this sub-paragraph “organised” includes being organised automatically or by way of algorithms, in particular by displaying, tagging and sequencing).”

LORD CLEMENT-JONES

295F After Clause 149, insert the following new Clause –

“Enforcement of duties

- (1) OFCOM may give a notice under this section (a “provisional notice of contravention”) to a person if they consider that there are reasonable grounds for believing that the person has failed, or is failing, to comply with sections (*Duties on developers and persons providing cloud computing platforms*) and (*Service Provider duties*).
- (2) A provisional notice of contravention may specify steps that OFCOM consider the person needs to take in order to –
 - (a) comply with the duty or requirement, or
 - (b) remedy the failure to comply with it.
- (3) A provisional notice of contravention may state that OFCOM propose to impose a prescribed fine on the person, and statement of reasons for that proposal.
- (4) OFCOM will consider any representation provided by a person in response to a provisional notice provided within 28 days starting from the date the provisional notice is served.
- (5) Following the 28 day period in subsection (4), OFCOM may serve a confirmation notice confirming whether the prescribed fine is payable and specifying steps that OFCOM consider the person needs to take in order to –
 - (a) comply with the duty or requirement, or
 - (b) remedy the failure to comply with it.

- (6) A person who fails to comply with a confirmation notice is guilty of an offence.
- (7) Where the person guilty of an offence under subsection (6) is a body corporate, the directors or equivalent of that company will be liable on conviction on indictment to a prescribed fine not exceeding the prescribed sum for the purposes of this section.
- (8) A person convicted summarily of an offence under this section will be liable –
 - (a) to imprisonment for a term not exceeding 1 year, or
 - (b) to a fine not exceeding the prescribed sum for the purposes of this section.
- (9) Nothing in sections (Duties on developers and persons providing cloud computing platforms) and (Service Provider duties) requires any person to access or otherwise inspect an encrypted file for which the person doesn't have access.
- (10) In this section, the prescribed sum is the greater of –
 - (a) £50,000, or
 - (b) in the case of a body corporate, 2% of the amount shown in that balance sheet as the net book value (or carrying amount) in that body's accounts for the previous financial year.
- (11) A court may direct that a person provide the net book value to allow them to impose a fine under subsection (10)(b)."

Before Clause 150

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES
LORD VAUX OF HARROWDEN

296

Before Clause 150, insert the following new Clause –

“Impact of Act on EU data adequacy decision

- (1) Within six months of the day on which this Act is passed, the Secretary of State must carry out an assessment of the likely impact of this Act on the EU data adequacy decisions relating to the United Kingdom.
- (2) Upon completion of the assessment under subsection (1), a Minister of the Crown must lay before Parliament a report of the findings.
- (3) The assessment must include specific consideration of the impact of the Act on –
 - (a) data risk, and
 - (b) small and medium-sized businesses.
- (4) The report under subsection (2) must include an estimate of the impact of the Act in financial terms.”

Member's explanatory statement

This amendment is to probe whether the Government anticipate the provisions of this Bill conflicting with the requirements that need to be met by the UK to maintain a data adequacy decision by the EU.

Clause 150

VISCOUNT CAMROSE

297 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

298 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).

Clause 155

BARONESS SHERLOCK

299 Clause 155, page 189, line 27, leave out “and (3)” and insert “, (3) and (3A)”

Member's explanatory statement

This amendment is consequential on a later change to commencement provisions and would ensure that the new social security powers granted by the Bill are only commenced when a number of steps have been taken.

LORD CLEMENT-JONES

300 Clause 155, page 189, line 36, at end insert –

“(fa) section (*Digital identity theft*);”

BARONESS JONES OF WHITCHURCH

301 Clause 155, page 190, line 4, at end insert –

“(za) section 1 (information relating to an identifiable individual);”

Member's explanatory statement

This amendment would delay the commencement of Clause 1 of the Bill until two months after Royal Assent. This is designed to give the Secretary of State two months to publish an assessment of the changes proposed by that Clause as required by an amendment to Clause 1.

BARONESS SHERLOCK

302 Clause 155, page 190, line 12, leave out paragraph (f)

Member's explanatory statement

This amendment would remove the automatic entry into force of the new social security powers contained in the Bill. At present, these provisions would be commenced two months after Royal Assent.

BARONESS SHERLOCK

303 Clause 155, page 190, line 14, at end insert –

“(3A) The Secretary of State may not lay regulations to bring section 128 (power to require information for social security purposes) and Schedule 11 (power to require information for social security purposes) into force until the Secretary of State has –

- (a) issued a call for evidence to inform the creation of the first code of practice as required by Schedule 3B of the Social Security Administration Act 1992 (power of the Secretary of State to require account information),
- (b) consulted the Financial Conduct Authority and organisations that will have to comply with notices on the operation of the proposed powers, and
- (c) laid before Parliament one or more statements outlining –
 - (i) whether and how the Secretary of State proposes to use artificial intelligence tools as part of the exercising of their powers, and how these tools will take account of protected characteristics,
 - (ii) whether and how special provision will be made to ensure individuals who are subject to investigation do not experience financial hardship during that investigation, or any lasting detriment following its completion, and
 - (iii) whether the Secretary of State intends to outsource investigations to private contractors and, if so, what assurances the Secretary of State will seek in relation to the conduct of those investigations.”

Member's explanatory statement

This amendment would require the Secretary of State to fulfil several requirements prior to laying regulations to commence the Bill's new social security powers.

Data Protection and Digital Information Bill

FIFTH MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

16 April 2024

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