

Data Protection and Digital Information Bill

SEVENTH 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.**

Schedule 11

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 3B of the Social Security Administration Act 1992 inserted by this Bill.

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).

LORD CLEMENT-JONES

240A Clause 138, page 172, line 16, leave out “negative” and insert “affirmative”

Member's explanatory statement

This amendment and another in the name of Lord Clement-Jones to this clause would ensure proposals are subject to the affirmative procedure and industry input sought.

LORD CLEMENT-JONES

240B Clause 138, page 172, line 16, at end insert –

- “(6) Before making regulations under subsection (3), the Secretary of State must –
- (a) publish draft regulations on the form and manner in which NUAR must be kept,
 - (b) issue a call for evidence on such draft regulations, and
 - (c) lay before Parliament a statement outlining how the Secretary of State will take into account the responses received to such a call for evidence.”

Member's explanatory statement

This amendment and another in the name of Lord Clement-Jones to this clause would ensure proposals are subject to the affirmative procedure and industry input sought.

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 –

5 (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.

10 (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”.

15 (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).

LORD CLEMENT-JONES

As an amendment to amendment 241

241A After subsection 5 insert –

“(6) Within 6 months of this section coming into force, the Secretary of State must lay before Parliament a statement that –

(a) provides a review of any organisations that currently exist which are dedicated to facilitating the exchange of data relating to assets in the street in England and Wales.

(b) makes an assessment of the quality, coverage and completeness of these organisations’ data exchanges, including feedback from users,

(c) makes an assessment of the value that such information would provide to NUAR in its initial upload period,

(d) outlines any potential benefits to the creation and maintenance of NUAR that any such organisation might provide.”

Member's explanatory statement

This amendment would require the Government to conduct a more formal and detailed review of the pre-existing service in this area, and how NUAR could be better aligned with industry best practice.

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.

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 138 stand part of the Bill.

Member's explanatory statement

This clause was not in the Bill as introduced in the Commons.

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.

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Schedule 13 be the Thirteenth Schedule to the Bill.

Member's explanatory statement

This Schedule was not in the Bill as introduced in the Commons.

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).

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 139 stand part of the Bill.

Member's explanatory statement

This clause was not in the Bill as introduced in the Commons.

Clause 140

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 140 stand part of the Bill.

Member's explanatory statement

This clause was not in the Bill as introduced in the Commons.

Clause 141

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 141 stand part of the Bill.

Member's explanatory statement

This clause not in the Bill as introduced in the Commons.

After Clause 141

LORD CLEMENT-JONES

249A After Clause 141, insert the following new Clause –

“Commencement of sections 138 to 141

The Secretary of State may not lay regulations under section 155(1) to bring sections 138 to 141 or Schedule 13 into force until the Secretary of State has –

- (a) issued a public call for evidence on the effects that the provisions in those clauses and that schedule would have on –
 - (i) existing organisations and services that provide similar functions to the National Underground Asset Register (NUAR), including the likelihood of NUAR matching their quality and effectiveness,
 - (ii) the safety on roads and street works in the first 5 years after their coming into force, including the potential for a higher number of asset strikes during the transition from current systems to NUAR,
 - (iii) undertakers which have buried assets – including, but not limited to, buried copper assets – and whether they face a higher risk of theft and disruption as a result of NUAR,
 - (iv) the competition implications to asset owners regarding a loss of data access control to their network records as a result of the creation of NUAR, and
 - (v) the security implications resulting from asset owners losing data access control to their network records as a result of the creation of NUAR;
- (b) laid before Parliament a statement outlining the responses received to such a call for evidence and the Secretary of State’s response to them.”

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 an intimate act.
- (2) A person is not guilty of an offence by virtue of subsection (1) 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.
- (3) Offences under this section are punishable either on conviction on indictment or on summary conviction.
- (4) 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.
- (5) 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.
- (6) The Secretary of State must by regulations prescribe the sum for the purposes subsections (4) and (5).
- (7) Regulations made under subsection (6) are subject to the affirmative procedure.”

Member's explanatory statement

This amendment would make it an offence to intentionally generate a deepfake depicting 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)."

LORD CLEMENT-JONES

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

“Data risks from systemic competitors and hostile actors

- (1) The Secretary of State, in consultation with the Information Commissioner, must conduct a risk assessment on the data privacy risks associated with genomics and DNA companies that are headquartered in countries they determine to be systemic competitors and hostile actors.
- (2) Within 12 months of the passage of this Act, the Secretary of State must present this risk assessment report to Parliament and consult the intelligence and security agencies on the findings, taking into account the need to not make public information critical to national defence or ongoing operations.
- (3) This risk assessment must evaluate –
 - (a) the potential for genomic and DNA data to be exfiltrated outside of the UK,

- (b) the degree of access granted to foreign entities, particularly those linked to systemic competitors and hostile actors, to the genomic and DNA data collected within the UK,
 - (c) the potential misuse of genomic and DNA data for dual-use or other nefarious purposes,
 - (d) the implications for UK national security and strategic advantage,
 - (e) the risks to the privacy and rights of UK citizens, and
 - (f) the potential for such data to be used in a manner that could compromise the privacy or security of UK citizens or the national interest.
- (4) The risk assessment must include, but is not limited to –
- (a) an analysis of the data handling and storage practices of genomics companies that are based in countries designated as systemic competitors and hostile actors,
 - (b) an independent audit at any company site that could have access to UK genomics data, and
 - (c) evidence of clear disclosure statements to consumers of products and services from genomics companies subject to data handling and disclosure requirements in the countries they are headquartered.
- (5) This risk assessment must be conducted as frequently as deemed necessary by the Secretary of State or the Information Commissioner to address evolving threats and ensure continued protection of the genomics sector from malign entities controlled, directly or indirectly, by countries designated as systemic competitors and hostile actors.
- (6) The Secretary of State has the authority to issue directives or guidelines based on the findings of the risk assessment to ensure compliance by companies or personnel operating within the genomics sector in the UK, safeguarding against identified risks and vulnerabilities to data privacy.”

Member's explanatory statement

This amendment seeks to ensure sufficient scrutiny of emerging national security and data privacy risks related to advanced technology and areas of strategic interest for systemic competitors and hostile actors. It aims to inform the development of regulations or guidelines necessary to mitigate risks and protect the data privacy of UK citizens' genomics data and the national interest. It seeks to ensure security experts can scrutinise malign entities and guide researchers, consumers, businesses, and public bodies.

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

- 299A Clause 155, page 189, line 27, after “(3)” insert “and section (Commencement of sections 138 to 141)”

Member's explanatory statement

This amendment would delay commencement of the NUAR provisions until after a full call for evidence is issued and the results published.

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

SEVENTH MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

23 April 2024

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS