

Data Protection and Digital Information Bill

AMENDMENTS
TO BE MOVED
ON REPORT

Clause 14

LORD CLEMENT-JONES

Clause 14, page 27, line 6, after “solely” insert “or predominantly”

Member's explanatory statement

This amendment would mean that where significant decision taken by or on behalf of a controller in relation to a data subject predominantly involves automated processing the controller must ensure that safeguards for the data subject's rights, freedoms and legitimate interests are in place which comply with paragraph 2 and any regulations under Article 22D(4).

LORD CLEMENT-JONES

Clause 14, page 27, line 12, after “subject” insert “including meaningful information about the logic involved, the significance and the envisaged consequences of such processing for the data subject, and a personalised explanation for the decision”

Member's explanatory statement

This amendment would introduce a new safeguard for a data subject.

After Clause 14

BARONESS JONES OF WHITCHURCH

After Clause 14, insert the following new Clause—

“Use of the Algorithmic Transparency Recording Standard

- (1) The Secretary of State must by regulations make provision requiring Government departments, public authorities and all persons exercising a public function using algorithmic tools to process personal data to use the Algorithmic Transparency Recording Standard (“the Standard”).
- (2) The Standard is that published by the Central Digital and Data Office and Centre for Data Ethics and Innovation as part of the Government’s National Data Strategy.

- (3) Regulations under subsection (1) must require the submission and publication of algorithmic transparency reports as required by the Standard.
- (4) Regulations under subsection (1) may provide for exemptions to the requirement for publication where necessary –
 - (a) to avoid obstructing an official or legal inquiry, investigation or procedure,
 - (b) to avoid prejudicing the prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties,
 - (c) to protect public security, or
 - (d) to safeguard national security.
- (5) Regulations under subsection (1) are subject to the affirmative resolution procedure.”

Member's explanatory statement

This new Clause puts a legislative obligation on public bodies using algorithmic tools that have a significant influence on a decision-making process with direct or indirect public effect, or directly interact with the general public, to publish reports under the Algorithmic Transparency Recording Standard.

Clause 17

LORD CLEMENT-JONES

Clause 17, page 32, line 38, at end insert “or where the controller or processor has designated a data protection officer under Article 37 of Regulation (EU) 2019/679 (protection of natural persons with regard to the processing of personal data and on the free movement of such data) and that data protection officer is responsible for processing under that Regulation”

Member's explanatory statement

This amendment probes whether the roles of Senior Responsible Individual (“SRI”) in this Bill and data protection officer (“DPO”) under the EU GDPR are compatible.

After Clause 49

LORD CLEMENT-JONES
BARONESS JONES OF WHITCHURCH

After Clause 49, 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.

Clause 115

BARONESS JONES OF WHITCHURCH

Clause 115, page 141, line 31, leave out “, political or other” and insert “or”

Member's explanatory statement

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

BARONESS JONES OF WHITCHURCH

Clause 115, page 142, line 2, 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 115 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 116

BARONESS JONES OF WHITCHURCH

Leave out Clause 116

Member's explanatory statement

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

Clause 117

BARONESS JONES OF WHITCHURCH

Leave out Clause 117

Member's explanatory statement

This amendment is consequential on an amendment to leave out Clause 116. Clause 117 would become redundant if Clause 116 were removed from the Bill.

After Clause 152

LORD CLEMENT-JONES

After Clause 152, insert the following new Clause –

“Impact of this Act and other developments at national and international level 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 on the EU data adequacy decisions relating to the United Kingdom of the following –
 - (a) this Act;
 - (b) other changes to the UK’s domestic frameworks which are relevant to the matters listed in Article 45(2) of the UK GDPR; and
 - (c) relevant changes to the UK’s international commitments or other obligations arising from legally binding conventions or instruments as well as from its participation in multilateral or regional systems, in particular in relation to the protection of personal data.
- (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 this 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 this Act in financial terms.”

Member's explanatory statement

This amendment would require the Secretary of State to carry out within six months of the day on which this Act is passed an assessment of the likely impact on the EU data adequacy decisions relating to the United Kingdom.

LORD CLEMENT-JONES

After Clause 152, 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.”

Member's explanatory statement

This amendment would create a digital identity theft offence.

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