# Data Protection and Digital Information Bill

RUNNING LIST OF ALL

AMENDMENTS ON REPORT

*Tabled up to and including*

*22 May 2024*

*[Sheets HL Bill 67(a) to (d)]*

**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
LORD CLEMENT-JONES

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 16**

BARONESS JONES OF WHITCHURCH

Leave out Clause 16 and insert the following new Clause—

**"Representatives of controllers etc outside the UK**

(1) The UK GDPR is amended in accordance with subsections (2) to (5).

(2) In Article 27 (Representatives of controllers or processors not established in the United Kingdom)—

(a) in the title, omit "or processors",

(b) in paragraph 1 omit "or the processor",

(c) in paragraph 4 omit "or processor" and "or the processor", and

(d) in paragraph 5 omit "or processor" and "or the processor"

(3) In Article 4(17) (definition of "representative") omit "or processor" in each place it occurs.

(4) In Article 31 (cooperation with the Commissioner) for "their" substitute "the controller's".

(5) In Article 58(1)(a) (Commissioner's powers) omit "or the processor's representative".

(6) The 2018 Act is amended as follows—

(a) in section 142(9) omit "or processor" and "or processors" in each place it occurs,
(b) in section 143(9) omit "or processor" in each place it occurs, and
(c) in section 181 (interpretation of Part 6) omit "or processor" and "or processors" in each place it occurs."

***Member's explanatory statement***
*This replacement of Clause 16 would provide for Article 27 of the UK GDPR to remain active, but for the requirement to appoint a UK representative only to apply in relation to data controllers.*

**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 27**

LORD BETHELL

After Clause 27, insert the following new Clause—

**"Power to designate research data holders and areas of public interest research**

(1) The Information Commission may designate a company (as defined in section 992 of the Income Tax Act 2007) meeting the criteria in subsection (2) as a "research data holder" for the purposes of this Part of this Act.

(2) The criteria referred to in subsection (1) are that the company–
  (a) is classified as 'very large' for the purposes of the payment of corporation tax, and
  (b) is reasonably likely to hold personal data of substantial value for the purposes of conducting public interest research (see subsection (3)).

(3) The Information Commission must notify in writing any company which it designates as a research data holder within 28 days.

(4) The Information Commission shall, within one year of this Act coming into force, designate one or more fields of inquiry in which advancements are likely to be of general public benefit and which reasonably required the processing of personal data as areas of "public interest research" for the purposes of this Part of this Act.

(5) In exercising its powers under subsections (1) and (4), the Information Commission must consult, to the extent appropriate–

(a) existing research data holders,

(b) UK Research and Investment, and

(c) persons meeting criteria in subsection (2) of section *(Designation of approved researchers).*

(6) In exercising its powers under subsections (1) and (4), the Information Commission may consult, as it considers appropriate–

(a) research associations and academic institutions, and

(b) persons who appear to the Information Commission to represent the interests of data controllers.

(7) After the initial designation under subsection (4), the Information Commission shall review the designation of areas of public interest research at subsequent intervals not exceeding two years.

(8) The Information Commission shall terminate the designation of a company as a research data holder if, for a period of one year or longer, it ceases to meet the criteria in subsection (2).

(9) The Secretary of State may by regulations amend the criteria in subsection (2)(a).

(10) Regulations made under subsection (9) are subject to the negative resolution procedure."

LORD BETHELL

After Clause 27, insert the following new Clause—

**"Designation of approved researchers**

(1) The Information Commissioner must, on the written application of any person meeting the criteria in subsection (2), designate them as an "approved researcher" for the purposes of this Part of this Act.

(2) The criteria referred to in subsection (1) are that the person—

(a) is or intends to be engaged in public interest research,

(b) has the skills necessary to carry out public interest research competently and in accordance with generally accepted scientific standards, and

(c) is willing and able to carry out public interest research in compliance with the data protection legislation.

(3) The Information Commission may terminate the designation of a person as an approved researcher at any time if—

(a) they no longer meet the criteria in subsection (2),

(b) they materially breach any obligation imposed as a condition of access to data under subsection (3) of section *(Provision of personal data to approved researchers)*, or

(c) in its reasonable opinion, there is any other good reason to do so.

(4) The Secretary of State may by regulations amend the criteria in subsection (2).

(5) Regulations made under subsection (4) are subject to the negative resolution procedure."

LORD BETHELL

After Clause 27, insert the following new Clause—

**"Power to require datasets from research data holders**

(1) Subject to the conditions in subsection (2), the Information Commission may require any research data holder to provide it with access to personal data which the research data holder holds in a specified format where it is necessary and proportionate to do so for the purposes of facilitating public interest research.

(2) The conditions referred to in subsection (1) are that–
   (a) the use of the personal data requested for the purposes of public interest research would not unduly interfere with the intellectual property rights of any person,
   (b) the cost to the research data holder of providing the personal data does not exceed £5,000, and
   (c) the research data holder has been given a reasonable opportunity to make representations to the Information Commission about the request.

(3) In exercising the power under subsection (1), the Information Commission must consult–
   (a) persons meeting the criteria in subsection (2) of section *(Designation of approved researchers)*
   (b) UK Research and Innovation, and
   (c) to the extent the Information Commission considers it appropriate, research institutions and academic institutions.

(4) In exercising the power under subsection (1), the Information Commission must have regard to any representations made to it by the research data holder about the request.

(5) In calculating the cost to the research data holder under subsection (2)(b), any time spent by any person in providing the personal data is to be accounted for at a rate of £25 per person per hour.

(6) An exercise of the power under subsection (1) may specify data relating to more than one area of public interest research.

(7) The Information Commission may not exercise the power under subsection (1) in relation to the same research data holder more than once in any 12 month period.

(8) It is the duty of a research data Holder to provide personal data validly requested under subsection (1) to the Information Commission in the requested format within 3 months.

(9) In this Part of this Act, personal data provided to the Information Commission under subsection (1) is referred to as "available research data".

(10) The Secretary of State may by regulations amend the conditions in subsection (2).

(11) Regulations made under subsection (10) are subject to the negative resolution procedure."

LORD BETHELL

After Clause 27, insert the following new Clause—

**"Provision of personal data to approved researchers**

(1) The Information Commission must provide available research data to an approved researcher where the approved researcher demonstrates on written application that the personal data is reasonably necessary for the purposes of research which—

(a) is public interest research carried out by or on behalf of a person or organisation pursuing scientific research such as educational institutions and non-profit organisations pursuant to a public interest mission,

(b) is independent of commercial interests,

(c) will have its findings disseminated publicly free of charge, without prejudice to the protection of the rights to privacy and data protection of any person, and

(d) will be carried out with appropriate legal, technical, and organisational safeguards to protect the confidentiality of the data and the rights of data subjects.

(2) The Information Commission must make available to approved researchers sufficient information about available research data to enable them to make applications under subsection (1).

(3) The Information Commission may impose such conditions (which may include entry by the approved researcher into binding agreements) on access to personal data provided under subsection (1) as it considers appropriate to ensure that—

(a) the personal data is only used for public interest research, and

(b) the research is conducted in compliance with the data protection legislation."

LORD BETHELL

After Clause 27, insert the following new Clause—

**"Code of practice on researcher access to data**

(1) Within one year of this Act coming into force, the ICO must prepare and publish a code of practice about access to data for public interest research by approved researchers and the exercise of its powers and functions under sections *(Power to designate research data holders and areas of public interest research, Designation of*

*approved researchers, Power to require datasets from research data holders* and *Provision of personal data to approved researchers*).

(2) The code of practice referred to in subsection (1) must address—

(a) how the Information Commission intends to designate areas of Public Interest Research,

(b) the types of data controllers the Information Commission considers may be Research Data Holders, and the type of personal data it anticipates requesting from them,

(c) how applications under sections *(Designation of approved researchers* and *Provision of personal data to approved researchers)* should be formulated and how they will be assessed,

(d) appropriate legal, technical, and organisational safeguards for the conduct of research using available research data, and

(e) measures for reducing the time, effort and cost to research data holders and approved researchers in providing and accessing available research data.

(3) In preparing the code of practice under subsection (1), the Information Commission must consult—

(a) persons likely to be designated research data holders,

(b) persons likely to apply to be approved researchers,

(c) UK Research and Innovation, and

(d) to the extent the Information Commission considers appropriate, persons appearing to it to represent the interests of data subjects."

LORD BETHELL

After Clause 27, insert the following new Clause—

**"Appeal to the Tribunal**

A person subject to any decision by the Information Commissioner under sections (*Power to designate research data holders and areas of public interest research, Designation of approved researchers, Power to require datasets from research data holders, Provision of personal data to approved researchers* and C*ode of practice on researcher access to data*) may appeal to the Tribunal."

LORD BETHELL

After Clause 27, insert the following new Clause—

**"Report on the use of personal data for public interest research**

(1) The Information Commission must produce a report—

(a) describing how, and to what extent, persons carrying out research in fields of inquiry in which advancements are likely to be of general public benefit and which reasonably required the processing of personal data are able to access the personal data necessary to do so,

(b) exploring the legal and other issues which currently constrain the sharing of personal data for such purposes, and

(c) assessing how data controllers should be incentivised or required to make personal data available for such research, including through legally enforceable incentives, duties or requirements.

(2) In preparing the report under subsection (1), the Information Commission must consult—

(a) the Centre for Data Ethics and Innovation,

(b) United Kingdom Research and Innovation,

(c) persons who appear to the Information Commission to represent data controllers, and

(d) such other persons as the Information Commission considers appropriate.

(3) The Information Commission must publish the report within the period of two years beginning with the day on which this section comes into force.

(4) The Information Commission must send a copy of the report to the Secretary of State, and the Secretary of State must lay it before Parliament."

LORD BETHELL

After Clause 27, insert the following new Clause—

**"Regulations to provide for access to personal data for public interest research**

(1) After the report prepared under section *(Report on the use of personal data for public interest research)* is laid before Parliament, the Secretary of State may by regulations make provision for access by independent researchers to personal data which is reasonably necessary for public interest research in compliance with the data protection legislation.

(2) Regulations made under this section are subject to the positive resolution procedure."

**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.*

BARONESS JONES OF WHITCHURCH

After Clause 49, insert the following new Clause—

**"Provision about representation of data subjects who are children**

(1) Section 190 of the Data Protection Act 2018 is amended as follows.

(2) In subsection (1), 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,"

(3) After subsection (3) insert—

"(3A) When the Secretary of State first makes provision by regulations under subsection (1)(a) and (b), the regulations must include provision in relation to data subjects who are children.""

***Member's explanatory statement***
*This new Clause would amend section 190 of the Data Protection Act 2018 to make clear that the Secretary of State must bring forward regulations allowing organisations to raise data breach complaints on behalf of data subjects. The first set of regulations made by the Secretary of State would have to make provision in relation to children.*

**Clause 115**

BARONESS JONES OF WHITCHURCH
LORD CLEMENT-JONES

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
LORD CLEMENT-JONES

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
LORD CLEMENT-JONES

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
LORD CLEMENT-JONES

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 145**

BARONESS KIDRON

After Clause 145, insert the following new Clause—

**"Right to remuneration for digital use of audiovisual, literary, musical, and visual artistic works**

(1) Within twelve months of the passing of this Act, the Secretary of State must by regulations establish a domestic scheme to provide authors and performers of audio, audiovisual, literary, musical, and visual artistic works with a right to remuneration for—
  (a) digital private copies of their works.
  (b) use of their works to build and train AI models or to generate AI works.

(2) The scheme under subsection (1) must ensure that the right to remuneration is—
  (a) unwaivable and non-assignable (except to a collective management organisation),

(b) in the case of (1)(a) works, payable by manufacturers and importers of devices capable of making copies and providers of remote data storage solutions, and

(c) in the case of (1)(b) works, payable by owners, developers and operators of General Purpose AI Systems.

(3) The scheme under subsection (1) must enable authors and performers to receive remuneration from other countries where private copy remuneration schemes or AI licensing schemes are in place which include a reciprocity requirement.

(4) The scheme under subsection (1)(b) includes remuneration in circumstances where the author and performer has not consented to the use of their works but does not curtail the author and performer's right to object to the use of their works as described in (1)(b).

(5) Where an author or performer can show that the AI model is capable of generating content that replicates or is derivative of their work, they are entitled to remuneration.

(6) Regulations under subsection (1) are subject to the affirmative procedure.

(7) Within two months of the establishment of the scheme under subsection (1), the Secretary of State must publish a review assessing whether the scheme adequately protects authors and performers of audiovisual, literary, musical, and visual artistic works right to remuneration from the impact of digital private copying.

(8) In this section:

(a) "private copying" means the use digital devices to download, store, copy and share content for personal use or between two private individuals beyond what has been licensed.

(b) "General Purpose AI Systems" means an AI system or models with generative capabilities.

(c) operators of General Purpose AI Systems includes those training, adapting, operating or developing AI General Purpose AI Systems under license (including both API and open source)."

**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.*

LORD CLEMENT-JONES

After Clause 152, insert the following new Clause—

**"Offence: creating, altering or generating a deepfake without consent**

(1) It is an offence to create, alter or otherwise generate a deepfake which depicts a person without the consent of the depicted person.

(2) A person is not guilty of an offence by virtue of subsection (1) if they show that—

(a) the deepfake was created, altered or otherwise generated for the purposes of caricature, parody or pastiche and they have taken reasonable steps to ensure this is known,

(b) they disclosed that the image, video or audio recording was a deepfake in a conspicuous manner and have taken steps to ensure this is drawn to the attention of any other person who may view that image, video or recording, or

(c) they had a reasonable belief that the person depicted in the deepfake consented to being depicted in the deepfake, and to the manner in which they were depicted.

(3) Subsections (2)(a) and (2)(b) do not apply in cases where the deepfake depicts—

(a) a CSEA offence, or

(b) an intimate act.

(4) Offences under this section shall be punishable either on conviction on indictment or on summary conviction.

(5) A person convicted on indictment of an offence under this section shall be 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 Part or to both.

(6) A person convicted summarily of an offence under this section shall be 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 Part."

***Member's explanatory statement***
*This amendment seeks to make it an offence to create, alter or generate a deepfake which depicts a person without the consent of the depicted person.*

LORD CLEMENT-JONES

After Clause 152, insert the following new Clause—

**"Offence: providing deepfake software**

(1) It is an offence for a person to provide software or a computer program whose primary purpose is to enable the creation of deepfakes which would be an offence under this Act.

(2) Offences under this section shall be punishable either on conviction on indictment or on summary conviction.

(3) A person convicted on indictment of an offence under this section shall be 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 Part or to both.

(4) A person convicted summarily of an offence under this section shall be 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 Part."

***Member's explanatory statement***
*This amendment seeks to make it an offence for a person to provide software or a computer program whose primary purpose is to enable the creation of deepfakes.*

LORD CLEMENT-JONES

After Clause 152, 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 programme 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 programme 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 the 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 the guidance issued under subsection (3)."

***Member's explanatory statement***
*This amendment seeks to place duties on developers and persons providing cloud computing platforms.*

LORD CLEMENT-JONES

After Clause 152, 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,

(c) establish and maintain policies, controls and procedures designed to identify and verify customers' identity on the basis of documents, data or information obtained from a reliable and independent source, and

(d) 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) establish and maintain policies, controls and procedures designed to identify and verify customers' identity on the basis of documents, data or information obtained from a reliable and independent source,

(d) monitor the use of the software, digital platform service or computer program by third parties, and

(e) 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 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 the 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 the guidance issued under subsection (3)."

***Member's explanatory statement***
*This amendment is consequential on another in my name.*

LORD CLEMENT-JONES

After Clause 152, insert the following new Clause—

**"Enforcement of duties**

(1) OFCOM may give a "provisional notice of contravention" under this section 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 provide by a person in response to a provision 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 shall be liable on conviction on indictment to a prescribed fine not exceeding the prescribed sum.

(8) A person convicted summarily of an offence under this section shall be liable—
  (a) to imprisonment for a term not exceeding 5 years, or
  (b) to a fine not exceeding the prescribed sum.

(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."

***Member's explanatory statement***
*This amendment is consequential on another in my name.*

LORD CLEMENT-JONES

After Clause 152, insert the following new Clause—

**"Interpretation**

(1) "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;

(2) "Create" means taking steps to produce or distribute but excludes mere possession;

(3) "Deepfake" means an 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;

(4) "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).

(5) "Person" includes (in addition to an individual and a body of persons corporate or unincorporate) any organisation or association of persons."

***Member's explanatory statement***
*This amendment is consequential on another in my name.*

LORD CLEMENT-JONES

After Clause 152, insert the following new Clause —

**"Prescribed sum**

(1) The prescribed sum in sections *(Offence: creating, altering or generating a deepfake without consent* and *Offence: providing deepfake software)* 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.

(2) A court may direct that a person provide the net book value to allow that them to impose a fine under subsection (1)(b)."

***Member's explanatory statement***
*This amendment is consequential on another in my name.*

LORD CLEMENT-JONES

After Clause 152, 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—

"(4) "deepfake" means an 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.""

***Member's explanatory statement***
*This amendment is consequential on another in my name.*

# Data Protection and Digital Information Bill

RUNNING LIST OF ALL

AMENDMENTS ON REPORT

*Tabled up to and including*

*22 May 2024*

*[Sheets HL Bill 67(a) to (d)]*

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*22 May 2024*

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