

Victims and Prisoners Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON THIRD READING

[Amendments marked ★ are new or have been altered]

Amendment
No.

After Clause 31

LORD BELLAMY

- 1★ After Clause 31, insert the following new Clause –
- “Right to erasure of personal data**
- (1) Article 17 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (right to erasure) is amended in accordance with subsections (2) and (3).
- (2) In paragraph 1, after point (f) insert –
- “(g) the personal data have been processed as a result of an allegation about the data subject –
- (i) which was made by a person who is a malicious person in relation to the data subject (whether they became such a person before or after the allegation was made),
- (ii) which has been investigated by the controller, and
- (iii) in relation to which the controller has decided that no further action is to be taken.”
- (3) After paragraph 3 insert –
- “4. For the purposes of paragraph (1)(g), a person who has made an allegation about a data subject is a “malicious person” in relation to the data subject if the person –
- (a) has been convicted of an offence specified in column 1 of the table in paragraph 5 in relation to which the data subject is a person specified in the corresponding entry in column 2 of that table, or

- (b) is subject to a stalking protection order under section 2 of the Stalking Protection Act 2019 or section 8 of the Protection from Stalking Act (Northern Ireland) 2022 (c. 17 (N.I.)) made to protect the data subject from a risk associated with stalking (see section 2(1)(c) of the 2019 Act and section 8(2)(c) of the 2022 Act).

5. The table is as follows –

| | Offence | Data subject |
|----|---|---|
| 1. | An offence under section 2 of the Protection from Harassment Act 1997 (offence of harassment: England and Wales) | A person mentioned in section 1(1)(a) or 1(1A)(a) of that Act |
| 2. | An offence under section 2A, 4 or 4A of the Protection from Harassment Act 1997 (other harassment and stalking offences: England and Wales) | The person against whom the offence is committed |
| 3. | An offence under section 8 of the Stalking Protection Act 2019 (offence of breaching stalking protection order etc) | A person who the stalking protection order was made to protect from a risk associated with stalking (see section 2(1)(c) of that Act) |
| 4. | An offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is an offence specified in entry 1, 2 or 3 of this table | A person specified in column 2 of the entry in which the corresponding offence is specified |
| 5. | An offence under section 70 of the Army Act 1955 or Air Force Act 1955 as respects which the corresponding civil offence (within the meaning of that Act) is an offence specified in entry 1 or 2 of this table | A person specified in column 2 of the entry in which the corresponding civil offence is specified |
| 6. | An offence under section 42 of the Naval Discipline Act 1957 as respects which the civil offence (within the meaning of that section) is an offence | A person specified in column 2 of the entry in which the civil offence is specified |

| Offence | Data subject |
|---|---|
| specified in entry 1 or 2 of this table | |
| 7. An offence under section 39 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (stalking offences: Scotland) | The person against whom the offence is committed |
| 8. An offence under section 1 of the Protection from Stalking Act (Northern Ireland) 2022 (c. 17 (N.I.)) (stalking offences: Northern Ireland) | The person against whom the offence is committed |
| 9. An offence under section 13 of the Protection from Stalking Act (Northern Ireland) 2022 (c. 17 (N.I.)) (offence of breaching order: Northern Ireland) | A person who the stalking protection order was made to protect from a risk associated with stalking (see section 8(2)(c) of that Act) |
| 10. An offence under Article 4 or 6 of the Protection from Harassment (Northern Ireland) Order 1997 (S.I. 1997/1180 (N.I. 9)) (harassment offences: Northern Ireland) | The person against whom the offence is committed” |

(4) After section 13 of the Data Protection Act 2018 insert –

“13A Meaning of “relevant offence” for purpose of right to erasure

- (1) The Secretary of State may by regulations amend the table in Article 17(5) of the UK GDPR.
- (2) Regulations under this section are subject to the affirmative resolution procedure.””

Member's explanatory statement

This clause adds a new ground which data subjects can use to obtain erasure of personal data which has been processed as a result of an allegation about the data subject by a person who has been convicted of a relevant offence or who is subject to a stalking protection order protecting the data subject.

BARONESS MORGAN OF COTES
LORD RUSSELL OF LIVERPOOL
BARONESS BRINTON
BARONESS FINN

2★ After Clause 31, insert the following new Clause –

“Victims’ rights in relation to data

- (1) The UK GDPR is amended as follows.
- (2) In Article 21 (right to object), after paragraph 1, insert –
 - “1A. The data subject shall have the right to object on grounds relating to his or her particular situation, at any time to processing of personal data concerning him or her, or a third party where that party is a child for whom they have parental responsibility, which is based on points (a) to (f) of Article 6(1), including profiling based on those provisions, if exceptional circumstances apply.
 - 1B. The exceptional circumstances mentioned in paragraph 1A are –
 - (a) that the processing of the data was connected to, or reliant upon, conduct which could reasonably be suspected to constitute a criminal offence, or
 - (b) that the processing of the data was connected to, or reliant upon, conduct which could reasonably be considered as being intended to cause harassment, alarm or distress to the data subject or another living individual.
 - 1C. The Secretary of State may by regulations made by statutory instrument prescribe other exceptional circumstances where the right to object mentioned in paragraph 1A applies.
 - 1D. A statutory instrument containing regulations under paragraph 1C may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”
- (3) In Article 17 (right to erasure (“right to be forgotten”)), after paragraph 1(c), insert –

“(ca) the data subject objects to the processing pursuant to Article 21(1A).”

Member's explanatory statement

This amendment would allow victims of third party harassment to request the deletion of any personal data which was gathered or held as part of activity which could be considered criminal conduct. The aim of this amendment is to prevent third party reporting from causing ongoing distress to victims.

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