Data (Use and Access) Bill [HL]

RUNNING LIST OF ALL

AMENDMENTS IN GRAND COMMITTEE

Tabled up to and including

27 November 2024

The amendments are listed in accordance with the following Instruction –

[*Amendments marked ★ are new or have been altered*]

Clause 2

LORD LUCAS

Clause 2, page 3, line 28, at end insert –

"(1A) The Secretary of State may by regulations make provision requiring a data holder to communicate (to the extent that they have the data required to do this) in a specified manner with all or a subset of the customers for whom they hold data."

Member's explanatory statement

This amendment is to enable communication with customers to ascertain, for instance, whether regulations have been complied with or, for example in the case of the Student Loans Company, to enable research into the outcomes of courses that they have funded.

Clause 4

LORD CLEMENT-JONES

Clause 4, page 6, line 10, after first "business data" insert "in a machine readable format"

Member's explanatory statement
This amendment intends to promote the usability and interoperability of business data that is published or provided, particularly for functions of public nature, by giving the Secretary of State or the Treasury powers to require a specific format for how it is shared.

LORD CLEMENT-JONES

Clause 4, page 6, line 12, at end insert "(including the Secretary of State or the Treasury; publicly-owned bodies and local and regional authorities)."

Member's explanatory statement
This amendment aims to provide additional clarity on how these powers are intended to be used by specifying a non-exhaustive list of recipients of data.

LORD CLEMENT-JONES

Clause 4, page 6, line 36, at end insert—

"(d) make provision requiring business data to be published or provided in a machine readable format."

Member's explanatory statement
This amendment intends to promote the usability and interoperability of business data that is published or provided, particularly for functions of public nature, by giving the Secretary of State or the Treasury powers to require a specific format for how it is shared.

Clause 25

LORD CLEMENT-JONES

Clause 25, page 27, line 35, after "nature" insert "including activities related to the reduction of greenhouse gas emissions"

Member's explanatory statement
This amendment intends to clarify that the reduction of greenhouse gas emissions is a function of a public nature, and accordingly that an actor with a climate focus can be defined as a public authority.

After Clause 26

LORD CLEMENT-JONES

★ After Clause 26, insert the following new Clause—

"Offence: Compulsion of any person to provide data

(1) The compulsion of any person to provide data under this Part is an offence under section 185 of the Data Protection Act 2018.

(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
Compulsion of a person to provide data under this part shall be treated the same as compulsion of a subject access request under the Data Protection Act.

Clause 28

LORD CLEMENT-JONES

Clause 28, page 30, line 28, at end insert—

"(2A) Those rules must include processes for ongoing monitoring of compliance, including but not limited to processes and procedures for monitoring and investigating compliance.

(2B) The rules must contain mechanisms for redress for harms caused by compliance failures.

(2C) The Secretary of Sate must establish an independent process for hearing appeals against the findings of compliance investigations."

Member's explanatory statement
This amendment specifies additional rules for the trust framework.

VISCOUNT COLVILLE OF CULROSS

★ Clause 28, page 30, line 30, at end insert—

"(aa) the World Wide Web Consortium or similar international standards body, and"

Member's explanatory statement
This amendment seeks to align the UK with international standards from bodies like the World Wide Web Consortium (known as W3C), to ensure that the framework can enable seamless, identity management and data sharing, reduce administrative burdens and foster a globally interoperable digital identity system.

LORD CLEMENT-JONES

Clause 28, page 31, line 22, at end insert—

"(11) The Secretary of State must publish a five-year strategy for digital verification services in the UK following written consultation.

(12) The strategy must establish key performance indicators.

(13) The Secretary of State must report progress to Parliament against those performance indicators annually."

Member's explanatory statement
This amendment establishes accountability with respect to DVS.

Clause 31

LORD CLEMENT-JONES

★ Clause 31, page 32, line 34, at end insert—

"(1A) The review under subsection (1) must include, but is not limited to, performance against the five-year strategy and associated performance indicators, as well as the effectiveness of compliance monitoring and investigations activities."

Member's explanatory statement
This amendment specifies that the review must also include five-year strategy and the compliance monitoring and investigations mechanisms.

Clause 33

LORD CLEMENT-JONES

★ Clause 33, page 33, line 31, at end insert—

"(d) it was issued to a public body."

Member's explanatory statement
This amendment would mean that a certificate is to be ignored if it was issued to a public body.

Clause 34

LORD CLEMENT-JONES

Clause 34, page 34, line 14, at beginning insert "following the completion of established investigatory processes and independent appeal,"

Member's explanatory statement
This amendment means that the SoS may refuse to register a person only following completion of established investigatory processes and independent appeal.

LORD CLEMENT-JONES

Clause 34, page 34, line 30, leave out "Secretary of State" and insert "independent appeal body"

Member's explanatory statement
This amendment substitutes the SoS for an independent appeal body in the determination of compliance decisions.

LORD CLEMENT-JONES

Clause 34, page 34, line 36, at end insert—

"(3A) Representations may be made in line with the rules established for monitoring and investigating compliance with the trust framework."

Member's explanatory statement
This amendment allows representations to be made within the monitoring and investigating compliance trust framework rules.

Clause 41

LORD CLEMENT-JONES

Clause 41, page 39, line 3, at beginning insert "following the conclusion of an investigation process"

Member's explanatory statement
This amendment introduces an investigation process in the decision making of the SoS.

After Clause 44

LORD CLEMENT-JONES

★ After Clause 44, insert the following new Clause—

"Right to use non-digital verification services

(1) This section applies when an organisation—
  (a) requires an individual to use a verification service, and
  (b) uses a digital verification service for that purpose

(2) The organisation—
  (a) must make a non-digital alternative method of verification available to any individual required to use a verification service, and
  (b) must provide information about digital and non-digital methods of verification to those individuals before verification is required.

(3) Section (2) applies where it is reasonably practicable for an organisation to offer a non-digital method of verification."

Member's explanatory statement
This amendment creates a duty upon organisations to support digital inclusion by offering non-digital verification services where practicable.

After Clause 49

LORD CLEMENT-JONES

After Clause 49, insert the following new Clause—

"Public authorities to notify the Commissioner of the number of disclosures

(1) The Secretary of State may by regulations require a public authority to notify the Information Commissioner of the number of disclosures made by the authority under section 45 in periods specified or described in the regulations.

(2) Regulations under this section may provide that a public authority is required to make a notification to the Information Commissioner in respect of a period only in circumstances specified in the regulations.

(3) Regulations under this section may include—
  (a) provision about a matter listed in subsection (4), or
  (b) provision conferring power on the Information Commissioner to determine those matters.

(4) The matters are—
  (a) the form and manner in which a notification must be made,
  (b) the time at which, or period within which, a notification must be made, and
  (c) how the number of disclosures made by a public authority during a period is to be calculated.

(5) Regulations under this section are subject to the negative resolution procedure.

(6) In this section "public authority" means a person whose functions—
  (a) are of a public nature, or
  (b) include functions of that nature."

Member's explanatory statement
This new Clause introduces requirements for public authorities to report to the Commissioner on the amount of disclosures they are making to digital verification services.

Clause 50

LORD CLEMENT-JONES

Clause 50, page 46, line 19, at end insert—

"(3A) A person who acts in contravention of subsection (3) commits an offence.

(3B) A person who commits an offence under subsection (3A) is liable—

(a) on summary conviction to a fine; or

(b) on conviction on indictment to a term of imprisonment not exceeding 2 years or to a fine or both."

Member's explanatory statement
This amendment makes it an offence for someone to use a trust mark when they have no permission to do so, aimed to weed out fraud.

LORD CLEMENT-JONES

Clause 50, page 46, line 21, at end insert "but the power to institute civil proceedings by virtue of this subsection is without prejudice to subsections (3) to (3B).

(5) Proceedings under subsection (3A) may only be brought by or with the consent of—

(a) the Director of Public Prosecutions; or

(b) the Secretary of State."

Member's explanatory statement
This amendment is consequential to the other amendment in my name concerning offences for using a trust mark without permission.

After Clause 50

LORD CLEMENT-JONES

After Clause 50, insert the following new Clause—

"False digital identity documents etc

False digital identity documents etc

(1) Section 7 of the Identity Documents Act 2010 (Meaning of "identity document") is amended as follows.

(2) In subsection (1)—

(a) omit the "or" at the end of paragraph (e); and

(b) at the end of paragraph (f) insert "; or

(g) a digital identity document".

(3) After subsection (4) insert—

"(4A) In subsection (1)(g), a "digital identity document" means any identity document created or verified by digital verification services within the meaning of the Data (Use and Access) Act 2024 (see section 27 of that Act).""

Member's explanatory statement
This new Clause seeks to make using a false digital identity provided for by a DVS to be an offence within the Identity Documents Act 2010.

Clause 51

LORD CLEMENT-JONES

Clause 51, page 47, line 39, at end insert—

"(11A) It is an offence for an individual, in response to a notice under this section—
(a) to make a statement which the individual knows to be false in a material respect, or
(b) recklessly to make a statement which is false in a material respect.

(11B) A person who commits an offence under subsection (11A) is liable—
(a) on summary conviction in England and Wales, to a fine;
(b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum;
(c) on conviction on indictment, to a fine."

Member's explanatory statement
This amendment seeks to make it an offence for persons to provide false information to the Secretary of State in response to a written notice under Clause 51.

After Clause 64

LORD CLEMENT-JONES

After Clause 64, 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.

(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 operations 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, and use the legislation
(c) any other persons and organisations the review considers appropriate.

(4) The Secretary of State must lay a report of the review before each House of Parliament within six months of this Act coming into force."

Member's explanatory statement
This amendment requires 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 consider whether the pioneering progress of Tell Us Once could be extended to non-public sector holders of data.

Clause 67

VISCOUNT COLVILLE OF CULROSS
LORD CLEMENT-JONES

★ Clause 67, page 75, line 9, after "processing" insert "solely"

Member's explanatory statement
This amendment prevents misuse of the scientific research exceptions for data reuse by ensuring that the only purpose for which the reuse is permissible is for the scientific research - with no additional purposes.

VISCOUNT COLVILLE OF CULROSS
LORD CLEMENT-JONES

★ Clause 67, page 75, line 14, after "processing" insert "solely"

Member's explanatory statement
This amendment prevents misuse of the scientific research exceptions for data reuse by ensuring that the only purpose for which the reuse is permissible is for the scientific research - with no additional purposes.

VISCOUNT COLVILLE OF CULROSS
LORD CLEMENT-JONES

★ Clause 67, page 75, line 18, leave out "in the area of public health"

Member's explanatory statement
This amendment ensures that to qualify for the scientific research exception for data reuse, that research must be in the public interest. This requirement already exists in the Bill for medical research, but should apply to all scientific research wishing to take advantage of the exception.

LORD CLEMENT-JONES

Clause 67, page 75, line 21, at end insert—

"(c) only include processing for the purposes of a study in the area of education that can reasonably be described as scientific where the study is conducted in the public interest, and is conducted on an

opt-in basis where the data subject is a child, their parent, carer or legal guardian."

Member's explanatory statement
An amendment to probe the meaning of research and statistical purposes

VISCOUNT COLVILLE OF CULROSS
LORD CLEMENT-JONES

★ Clause 67, page 75, line 21, at end insert—

"(c) do not include processing unless the research—

(i) is consistent with generally recognised ethical standards relevant to the area of research, and

(ii) is considered appropriate by a research ethics committee that meets UKRI guidance and criteria for research ethics committee review."

Member's explanatory statement
This amendment ensures research seeking to make use of the scientific research exception for reuse meets minimum levels of academic rigour and ethical standards.

Clause 68

LORD CLEMENT-JONES

Clause 68, page 76, line 16, at end insert—

"(e) the data subject has been given the opportunity to express dissent or an objection, and has not so expressed."

Member's explanatory statement
This amendment is to make clear that when the purpose limitations are changed, that does not reduce or weaken the obligations around dissent.

Clause 70

LORD CLEMENT-JONES

★ Clause 70, page 77, leave out lines 34 to 38

Member's explanatory statement
This amendment and another amendment in Lord Clement-Jones's name to clause 70 omits paragraphs 70(2)(b)-(c), (4), (5) and (6) which make amendments to UK GDPR to define certain data processing activities as "recognised legitimate interests".

LORD CLEMENT-JONES

★ Clause 70, page 78, line 5, leave out subsections (4), (5) and (6)

Member's explanatory statement
This amendment and another amendment in Lord Clement-Jones's name to clause 70 omit paragraphs 70(2)(b)-(c), (4), (5) and (6) which make amendments to UK GDPR to define certain data processing activities as "recognised legitimate interests".

LORD CLEMENT-JONES

★ Clause 70, page 78, leave out lines 9 to 30.

Member's explanatory statement
This amendment deletes powers for Secretary of State to override primary legislation and modify key aspects of UK data protection law via Statutory Instrument.

LORD CLEMENT-JONES

Clause 70, page 79, line 4, leave out "affiliated to a central body" and insert "or separate undertakings affiliated by contract"

Member's explanatory statement
This amendment would allow businesses that are affiliated by contract to be treated in the same way as large businesses that have data from multiple companies in a group structure.

Schedule 4

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Schedule 4 be the Fourth Schedule to the Bill.

Member's explanatory statement
This amendment seeks to restore accountability over how data is shared and accessed for law enforcement and other public security purposes.

Clause 71

LORD CLEMENT-JONES

★ Clause 71, page 81, leave out lines 15 to 28

Member's explanatory statement
This amendment removes powers for Secretary of State to override primary legislation and modify key aspects of UK data protection law via Statutory Instrument.

Schedule 5

LORD CLEMENT-JONES

Schedule 5, page 184, line 15, at end insert—

"(iii) is not carried out for commercial purposes, and"

Member's explanatory statement
This amendment seeks to clarify whether the government intends to allow personal data processing for purposes that are commercial under the conditions described in this provision.

LORD CLEMENT-JONES

Schedule 5, page 186, line 7, at end insert—

"10A. This condition is met only where the controller has made an assessment of vulnerability and makes it publicly available to the data subjects prior to processing, repeated on an annual basis for any subsequent processing."

Member's explanatory statement
This amendment seeks to ensure transparency and accountability obligations are not removed from data controllers when processing personal data for the purposes of safeguarding vulnerable individuals based on an undefined characteristic that may change, and that may apply or not apply to any given individual at any point in time.

LORD CLEMENT-JONES

Schedule 5, page 186, line 7, at end insert—

"10A. The condition ceases to apply when the nature of the vulnerability for the individual, or the type of individual, is no longer present or has otherwise expired."

Member's explanatory statement
A probing amendment to seek clarity on the safeguards and processes for ensuring that processing activities tied to an undefined and changeable characteristic of 'vulnerability' do not persist unnecessarily or disproportionately.

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Schedule 5 be the Fifth Schedule to the Bill.

Member's explanatory statement
This amendment seeks to restore accountability over how data is shared and accessed for law enforcement and other public security purposes.

After Clause 72

LORD THOMAS OF CWMGIEDD
LORD CLEMENT-JONES

After Clause 72, insert the following new Clause—

"Application of the European Convention on Human Rights to the processing of personal data by private bodies

(1) Where personal data is processed by any private body not subject to the obligations under the European Convention on Human Rights as enacted by the Human Rights Act 1998, that private body is to be treated as subject to the obligations under the Convention as if it were a public authority and must ensure that such processing is not incompatible with a Convention right.

(2) If a private body fails to ensure that the processing of personal data is in accordance with subsection (1), the private body is liable to any person whose rights under the Convention are infringed as if it were a public authority,"

Member's explanatory statement
This is a probing amendment to ensure for the purpose of equivalence that the processing of personal data by private bodies is subject to the ECHR on the same basis as public bodies.

LORD CLEMENT-JONES

★ After Clause 72, insert the following new Clause—

"Determination of what is considered to be personal data

Notwithstanding any other provisions elsewhere in this Act—

(a) personal data that is then pseudonymised in part, but in which other indirect identifiers remain unaltered, remains personal data under the 2018 Act;

(b) if data is claimed not to be personal data for the purpose of some processing, and is later determined by the Commissioner to be personal data, then it was personal data at all points in that processing and all penalties for unlawful processing of personal data shall be available."

Member's explanatory statement
This amendment means that personal data remains personal data, even in instances where that is challenged, and the Commissioner has determined it is personal data.

Clause 74

LORD CLEMENT-JONES

★ Clause 74, page 84, leave out lines 7 to 22

Member's explanatory statement
This amendment removes powers for Secretary of State to override primary legislation and modify key aspects of UK data protection law via Statutory Instrument.

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 74 stand part of the Bill.

Member's explanatory statement
This amendment removes powers for Secretary of State to override primary legislation and modify key aspects of UK data protection law via statutory instrument.

After Clause 74

BARONESS KIDRON
LORD RUSSELL OF LIVERPOOL
LORD STEVENSON OF BALMACARA
BARONESS HARDING OF WINSCOMBE

After Clause 74, insert the following new Clause—

"Protection of children: overarching duty on controllers and processors

(1) In complying with their UK data protection obligations, data controllers and processors must give due consideration to—
  (a) the fact that children are entitled to a higher standard of protection than adults with regard to their personal data;
  (b) the need to prioritise children's best interests and to uphold their rights under UN Convention on the Rights of the Child and General Comment 25;
  (c) the fact that children may require different protections at different ages and stages of development.

(2) Nothing in this Act is to be construed as reducing, minimising or undermining existing standards and protections of children's data under the 2018 Act or UK GDPR.

(3) In this section, a "child" is a person under the age of 18."

Member's explanatory statement
This amendment creates an obligation on data processors and controllers to consider the central principles of the Age-Appropriate Design Code when processing children's data. This ensures greater consistency in the level of protection children receive.

Clause 77

VISCOUNT COLVILLE OF CULROSS
LORD CLEMENT-JONES

★ Clause 77, page 91, line 5, leave out "the number of data subjects,"

Member's explanatory statement
This amendment reduces the likelihood of misuse of Clause 77 by AI model developers, who may otherwise seek to claim they do not need to notify data subjects of reuse for scientific purposes under Clause 77 because of the way that personal data is typically collected and processed for AI development, for example by scraping large amounts of personal data from the internet.

VISCOUNT COLVILLE OF CULROSS
LORD CLEMENT-JONES

★ Clause 77, page 91, line 7, at end insert—

"6A For the purposes of paragraph 5(b), the effort involved will not be considered disproportionate because of, among other things, the number of data subjects, the fact the personal data was not collected from the data subject, or any processing undertaken by the controller that makes the effort involved greater."

Member's explanatory statement
This amendment reduces the likelihood of misuse of Clause 77 by AI model developers, who may otherwise seek to claim they do not need to notify data subjects of reuse for scientific purposes under Clause 77 because of the way that personal data is typically collected and processed for AI development, for example by scraping large amounts of personal data from the internet.

LORD CLEMENT-JONES

★ Clause 77, page 91, line 11, at end insert—

"7. Exemptions from Article 13, Information and access to personal data; and Article 14, Information to be provided where personal data have not been obtained from the data subject; do not apply where the data subject is a child at the time of data collection or at the time of any data processing."

Member's explanatory statement
The exemption regarding the obligation to provide information about further processing should not apply to children.

BARONESS HARDING OF WINSCOMBE
LORD CLEMENT-JONES
LORD STEVENSON OF BALMACARA
LORD BLACK OF BRENTWOOD

Clause 77, page 91, line 16, leave out "to the extent that" and insert "when any one or more of the following is true"

Member's explanatory statement
This amendment would clarify that only one condition under paragraph 5 must be present for paragraphs 1 to 4 to not apply.

BARONESS HARDING OF WINSCOMBE
LORD CLEMENT-JONES
LORD STEVENSON OF BALMACARA
LORD BLACK OF BRENTWOOD

Clause 77, page 91, line 16, at end insert—

"(ia) after point (a), insert—

"(aa) the data is from the Open Electoral Register;""

Member's explanatory statement
This amendment would change GDPR Article 14.

BARONESS HARDING OF WINSCOMBE
LORD CLEMENT-JONES
LORD STEVENSON OF BALMACARA
LORD BLACK OF BRENTWOOD

Clause 77, page 91, line 22, after "effort" insert "in particular where providing the information is not warranted by the impact on the individuals,"

BARONESS HARDING OF WINSCOMBE
LORD CLEMENT-JONES
LORD STEVENSON OF BALMACARA
LORD BLACK OF BRENTWOOD

Clause 77, page 91, line 30, after "things," insert "the effort and cost of compliance,"

Member's explanatory statement
This amendment adds to the list of what might constitute a disproportionate effort.

VISCOUNT COLVILLE OF CULROSS
LORD CLEMENT-JONES

★ Clause 77, page 91, line 30, leave out "the number of data subjects,"

Member's explanatory statement
This amendment reduces the likelihood of misuse of Clause 77 by AI model developers, who may otherwise seek to claim they do not need to notify data subjects of reuse for scientific purposes under Clause 77 because of the way that personal data is typically collected and processed for AI development, for example by scraping large amounts of personal data from the internet.

BARONESS HARDING OF WINSCOMBE
LORD CLEMENT-JONES
LORD STEVENSON OF BALMACARA
LORD BLACK OF BRENTWOOD

Clause 77, page 91, line 30, after "subjects," insert "the damage and distress to the data subjects,"

Member's explanatory statement
This amendment adds to the list of what might constitute a disproportionate effort.

BARONESS HARDING OF WINSCOMBE
LORD CLEMENT-JONES
LORD STEVENSON OF BALMACARA

★ Clause 77 page 91, line 30, after "subjects," insert "the reasonable expectation of the data subjects,"

Member's explanatory statement
This amendment adds to the list of what might constitute a disproportionate effort.

BARONESS HARDING OF WINSCOMBE
LORD CLEMENT-JONES
LORD STEVENSON OF BALMACARA
LORD BLACK OF BRENTWOOD

Clause 77, page 91, line 32, at end insert "and whether the information has been collected and made publicly available by a public body."

Member's explanatory statement
This amendment adds to the list of what might constitute a disproportionate effort.

VISCOUNT COLVILLE OF CULROSS
LORD CLEMENT-JONES

★ Clause 77, page 91, line 32, at end insert—

"6A. For the purposes of paragraph 5(e), the effort involved will not be considered disproportionate because of, among other things, the number of data subjects, the fact the personal data was not collected from the data subject, or any processing undertaken by the controller that makes the effort involved greater."

Member's explanatory statement
This amendment reduces the likelihood of misuse of Clause 77 by AI model developers, who may otherwise seek to claim they do not need to notify data subjects of reuse for scientific purposes under Clause 77 because of the way that personal data is typically collected and processed for AI development, for example by scraping large amounts of personal data from the internet.

BARONESS HARDING OF WINSCOMBE
LORD CLEMENT-JONES
LORD STEVENSON OF BALMACARA

Clause 77, page 91, line 36, at end insert—

"8. An appropriate safeguard might be a risk assessment, including limiting the extent and purpose of the processing for which the data might be used."

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 77 stand part of the Bill.

Clause 78

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 78 stand part of the Bill.

Member's explanatory statement
This amendment would restore transparency rights.

Clause 79

LORD CLEMENT-JONES

Clause 79, page 93, line 18, leave out "court" and insert "tribunal"

Member's explanatory statement
This amendment is consequential on the new Clause (Transfer of jurisdiction of courts to tribunals).

After Clause 79

LORD CLEMENT-JONES

★ After Clause 79, insert the following new Clause—

"Data protection impact assessments

(1) The UK GDPR is amended in accordance with subsections (2) to (7).

(2) In Article 35(1), after "natural persons" insert "or the public interest".

(3) In Article 35(7)(c), after "paragraph 1" insert "and to the public interest, including to equality and the environment".

(4) In Article 35(7)(d), after "other persons concerned" insert "and the public interest".

(5) In Article 35(9)—

(a) delete "Where appropriate,", and

(b) replace "data subjects" with "people affected by the intended processing".

(6) In Article 13(2), after point (e) insert—

"(ea) the results of the data protection impact assessment referred to in Article 35 and the nature of the consultation carried out under Article 35(9) to inform that assessment;"

(7) In Article 14(2), after point (f) insert—

"(fa) the results of the data protection impact assessment referred to in Article 35 and the nature of the consultation carried out under Article 35(9) to inform that assessment""

Clause 80

LORD CLEMENT-JONES

Clause 80, page 94, line 24, at end insert—

"3. To qualify as meaningful human involvement, the review must be performed by a person with the necessary competence, training, authority to alter the decision and analytical understanding of the data."

Member's explanatory statement

This amendment would make clear that in the context of new Article 22A of the UK GDPR, for human involvement to be considered as meaningful, the review must be carried out by a competent person.

LORD CLEMENT-JONES

Clause 80, page 94, line 26 at end insert—

"A1. The data subject may not be subject to any decision based on data processing which contravenes a requirement of the Equality Act 2010."

Member's explanatory statement

This amendment to new Article 22B of the UK GDPR, aims to make clear that data processing which contravenes any part of the Equality Act 2010 is prohibited.

LORD THOMAS OF CWMGIEDD
LORD CLEMENT-JONES

Clause 80, page 94, line 27, leave out from "on" to "may" in line 28 and insert "personal data"

Member's explanatory statement
The amendment seeks to remove the restriction of the operation of the clause so that provision applies generally to all automated processing.

LORD CLEMENT-JONES

Clause 80, page 95, line 12, leave out "solely" and insert "predominantly"

Member's explanatory statement
This amendment would mean safeguards for data subjects' rights, freedoms and legitimate interests would have to be in place in cases where a significant decision in relation to a data subject was taken based predominantly, rather than solely, on automated processing.

LORD LUCAS

Clause 80, page 95, line 23, at end insert—

"(e) communicate to the data subject the fact that automated decision-making has been involved, the automated decision-making system's reasoning in reaching the conclusion that it has, and the extent of any human involvement."

Member's explanatory statement
This amendment seeks to ensure that, for example, a job applicant who has been rejected by an automated system is given clear reasons for the rejection.

LORD CLEMENT-JONES

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

After Clause 80

VISCOUNT COLVILLE OF CULROSS
LORD CLEMENT-JONES

After Clause 80, 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, and

(c) to protect public security, or 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 ('ATRS').

LORD CLEMENT-JONES

★ After Clause 80, insert the following new Clause—

"Algorithmic Impact Assessments

(1) Prior to deployment of an algorithmic or automated decision-making system, public authorities are responsible for completing an Algorithmic Impact Assessment prescribed in regulations made under this Act.

(2) Subsection (1) does not apply when the algorithmic or automated decision-making system is—

(a) used solely for the formulation of policy in relation to that public authority, and

(b) is not expected to, in practice, fully or predominantly determine the content of the policy.

(3) The Algorithmic Impact Assessment must be updated when the functionality, or the scope, of the algorithmic or automated decision-making system changes.

(4) The final Algorithmic Impact Assessment must be published in accessible format within 30 days of the results being known.

(5) The Secretary of State must by regulations prescribe the form of an Algorithmic Impact Assessment framework with the aims of ensuring public authorities—

(a) procure, develop, and implement algorithmic and automated decision-making systems such that the decisions made in and by a public authority are responsible and comply with procedural fairness and due process requirements, and its duties under the Equality Act and the Human Rights Act 1998,

(b) assess the impacts of algorithms on administrative decisions, minimise negative outcomes, and evaluate the potential to maximise positive outcomes,

(c) make data and information on the use of algorithmic and automated decision-making systems in public authorities available to the public,

(d) better understand and reduce the risks associated with algorithmic and automated decision-making systems,

(e) introduce the appropriate governance, oversight, and reporting and auditing requirements that best match the risks associated with the application envisaged, and

(f) undergo responsible innovation of algorithmic and automated decision-making systems.

(6) The framework as prescribed by regulations made under subsection (5) must include the requirement for—

(a) a detailed description of the algorithmic or automated decision-making system,

(b) an assessment of the relative benefits and risks of the system including the risks to the privacy and security of personal information, risks to the safety of a service user or group of service users, and risks and likely impacts on employees of public authorities,

(c) an explanation of the steps taken to minimise those risks,

(d) independent external scrutiny of the efficacy and accuracy of the system, and

(e) mandatory bias assessment of any algorithmic or automated decision-making system to ensure it abides by the Equality Act and the Human Rights Act 1998.

(7) The Secretary of State must publish regulations made under subsection (5) in draft and consult such persons they consider appropriate on the draft regulations before laying the regulations before both Houses of Parliament.

(8) Regulations under this section are subject to the affirmative resolution procedure.

(9) Algorithmic Impact Assessment" means a framework in the form laid down in Regulations made by the Secretary of State under this Act."

LORD CLEMENT-JONES

★ After Clause 80, insert the following new Clause—

"Algorithmic Transparency Records

(1) Prior to use or procurement of an algorithmic or automated decision-making system, public authorities must complete an Algorithmic Transparency Record prescribed in regulations made under this Act.

(2) Subsection (1) does not apply when the algorithmic or automated decision-making system is—

(a) used solely for the formulation of policy in relation to that public authority, and

(b) is not expected to, in practice, fully or predominantly determine the content of the policy.

(3) The Algorithmic Transparency Record must be published in accessible format within 30 days of the completion of the record.

(4) The Algorithmic Transparency Record must be updated when the functionality, or the scope, of the algorithmic or automated decision-making system changes.

(5) The Secretary of State must by regulations prescribe the form of transparency records with the aim of ensuring public authorities increase the transparency of algorithm-assisted decisions.

(6) The Algorithmic Transparency Record as prescribed by regulations made under subsection (1) must include the requirement for—

(a) a detailed description of the algorithmic or automated decision-making system,

(b) an explanation of the rationale for using the system,

(c) information on the technical specifications of the system,

(d) an explanation of how the system is used to inform administrative (se) decisions concerning a service user or group of service users, and information on human oversight of the system.

(7) Regulations under this section are subject to the affirmative resolution procedure."

LORD CLEMENT-JONES

★ After Clause 80, insert the following new Clause—

"Requirements of public sector organisations on use of algorithmic or automated decision-making systems

(1) No later than the commencement of use of a relevant algorithmic or automated decision-making system, a public authority must—

(a) give notice on a public register that the decision rendered will be undertaken in whole, or in part, by an algorithmic or automated decision-making system,

(b) make arrangements for the provision of a meaningful and personalised explanation to affected individuals of how and why a decision affecting them was made, including meaningful information about the decision-making processes, and an assessment of the potential consequences of such processing for the data subject, as prescribed in regulations to be made by the Secretary of State,

(c) develop processes to—

(i) monitor the outcomes of the algorithmic or automated decision-making system to safeguard against unintentional outcomes and to verify compliance with this Act and other relevant legislation, and

(ii) validate that the data collected for, and used by, the system is relevant, accurate, up-to-date, and in accordance with the Data Protection Act 2018, and

(d) make arrangements to conduct regular audits and evaluations of algorithmic and automated decision-making systems, including the potential risks of those systems and steps to mitigate such risks, as prescribed in regulations to be made by the Secretary of State.

(2) Algorithmic decision system" or "automated decision system" mean any technology that either assists or replaces the judgement of human decision-makers.

(3) Regulations under this section are subject to the affirmative resolution procedure."

Clause 81

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 81 stand part of the Bill.

Member's explanatory statement
This seeks to retain the requirement for police forces to record the reason they are accessing data from a police database.

Schedule 7

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Schedule 7 be the Seventh Schedule to the Bill.

Member's explanatory statement
This amendment removes powers for Secretary of State to override primary legislation and modify key aspects of UK data protection law via Statutory Instrument.

Clause 85

LORD CLEMENT-JONES

Clause 85, page 101, line 18, at end insert—

"(aa) processing of personal data is carried out in a manner which does not permit the identification of a living individual,"

Member's explanatory statement
This amendment prevents processing of personal data for RAS purposes if it permits the identification of a living individual.

LORD CLEMENT-JONES

Clause 85, page 102, line 38, at end insert—

"6 The requirement is not satisfied unless applicable dissents by the data subject are respected."

Member's explanatory statement
This amendment ensures that existing patient dissents are respected and cannot be ignored.

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 85 stand part of the Bill.

Clause 87

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 87 stand part of the Bill.

Clause 88

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 88 stand part of the Bill.

Clause 89

BARONESS JONES OF WHITCHURCH

Clause 89, page 112, line 24, at end insert—

"(10) In section 199(2)(a) of the Investigatory Powers Act 2016 (bulk personal datasets: meaning of "personal data"), after "section 82(1) of that Act" insert "by an intelligence service"."

Member's explanatory statement
Clause 88 of the Bill amends section 82 in Part 4 of the Data Protection Act 2018 (intelligence services processing). This amendment makes a consequential change to a definition in the Investigatory Powers Act 2016 which cross-refers to section 82.

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 89 stand part of the Bill.

Clause 90

BARONESS KIDRON
LORD RUSSELL OF LIVERPOOL
LORD STEVENSON OF BALMACARA
BARONESS HARDING OF WINSCOMBE

Clause 90, page 113, leave out lines 15 to 17 and insert—

"(e) the fact that children are entitled to a higher standard of protection than adults with regard to their personal data;

(f) the need to prioritise children's best interests and to uphold their rights under UN Convention on the Rights of the Child and General Comment 25;

(g) the fact that children may require different protections at different ages and stages of development;

(2) In this section, a "child" is a person under the age of 18."

Member's explanatory statement
This amendment provides a list of the protections, rights and needs to children at different ages and stages of development that the Information Commissioner's must take into account when exercising their regulatory functions.

Clause 92

BARONESS JONES OF WHITCHURCH

Clause 92, page 117, line 24, leave out from "of" to the end of line 27 and insert "—

(a) a code prepared under section 124A, or

(b) an amendment of such a code,

that is specified or described in the regulations."

Member's explanatory statement
New section 124B(11) of the Data Protection Act 2018 provides that the Information Commissioner's duty to establish a panel to consider draft codes of practice may be disapplied or modified by regulations. This amendment ensures that regulations can make provision in relation to a particular code or amendment or a type of code or amendment.

After Clause 92

BARONESS KIDRON
LORD RUSSELL OF LIVERPOOL
LORD STEVENSON OF BALMACARA
BARONESS HARDING OF WINSCOMBE

After Clause 92, insert the following new Clause—

"Code of practice on children and AI

(1) The Commissioner must prepare a code of practice in accordance with sections 91 and 92 which contains such guidance as the Commissioner considers appropriate on standards of fairness and ethical practice in the use of children's data and personal information in the development of AI including general purpose AI and use of foundational models that impact children.

(2) In preparing a code or amendments under this section, the Commissioner must—

(a) have regard to—

(i) 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,

(ii) the fact that children are entitled to a higher standard of protection the fact that children are entitled to a higher standard of protection than adults with regard to their personal data as established in the 2018 Act, and

(iii) the potential harm to future life chances, income, health and wellbeing,

(iv) the need for products and services likely to impact on children to be safe and equitable by design and default.

(b) must consult with—

(i) academics with expertise in the field, and

(ii) persons who appear to the Commissioner to represent the interests of children.

(3) In this section—

"fairness and ethical practice in the use of children's data and personal information in the development of AI" means having regard to—

(a) risk assessment;

(b) accountability;

(c) transparency;

(d) lawfulness;

(e) accuracy;

(f) fairness;

(g) ethical use;

"impacts children" means AI technology that is—

(a) based on data sets that include (or may include) children's data;

(b) used to automate services likely to be accessed by children and access their data;
(c) used to make decisions that impact children;
(d) used to surface or deprioritise content, information, people, accounts, services or products to children;
(e) used to predict or inform children's behaviour, opinions, opportunities and decision-making using personal data;
(f) used to imitate children's physical likeness, movements, voice, behaviour and thoughts using personal data;

"risk assessment" includes guidance on how controllers articulate and evaluate the following four stages—
(a) the intention and goals in creating an AI model and how these have evolved over time;
(b) the inputs used to build, train and evolve an AI model;
(c) the assumptions and instructions that inform the AI model's decision-making;
(d) intended and actual outputs and outcomes of the AI model;
(e) sufficient and consistent routes for complaint, redress and identification of emerging risk."

Member's explanatory statement
Given the rapid acceleration in the development of AI technology, this Code of Practice ensures that data processors prioritise the interests and fundamental rights and freedoms of children and sets out what this means in practice.

LORD CLEMENT-JONES

★ After Clause 92, insert the following new Clause—

"Code on processing personal data in education where it concerns a child or pupil

(1) The Information Commissioner must consult on, prepare and publish a Code of Practice on standards to be followed in relation to the collection, processing, publication and other dissemination of personal data concerning children and pupils in connection with the provision of education services in the United Kingdom, within the meaning of the Education Act 1996, the Education (Scotland) Act 1996, and the Education and Libraries (Northern Ireland) Order 1986; and on standards on the rights of those children as data subjects which are appropriate to children's capacity and stage of education.

(2) For the purposes of subsection (1), the rights of data subjects must include—
(a) measures related to responsibilities of the controller, data protection by design and by default, and security of processing,
(b) safeguards and suitable measures with regard to automated decision-making, including profiling and restrictions,

(c) the rights of data subjects including to object to or restrict the processing of their personal data collected during their education, including any exemptions for research purposes, and

(d) matters related to the understanding and exercising of rights relating to personal data and the provision of education services."

Member's explanatory statement
This amendment requires the Commission to consult on, prepare and publish a Code of Practice on standards to be followed in relation to the collection, processing, publication and other dissemination of personal data concerning children and pupils in connection with the provision of education services in the UK.

Clause 101

BARONESS KIDRON
LORD RUSSELL OF LIVERPOOL
LORD STEVENSON OF BALMACARA
BARONESS HARDING OF WINSCOMBE

Clause 101, page 129, line 32, at end insert—

"(5A) The report must—

(a) set out separately the information required under subsections (2) to (5) where regulatory action or policy relates to children;

(b) provide details of all activities carried out by the Information Commissioner to support, strengthen and uphold the Age-Appropriate Design Code;

(c) provide information about how it has met its child-related duties under section 120B (e)-(h)."

Member's explanatory statement
This amendment would ensure that the ICO's annual report records activities and action taken by the ICO in relation to children. This would enhance understanding, transparency and accountability.

Clause 103

LORD CLEMENT-JONES

Clause 103, page 131, line 23, leave out "court" and insert "tribunal"

Member's explanatory statement
This amendment is consequential on the new Clause (Transfer of jurisdiction of courts to tribunals).

LORD CLEMENT-JONES

Clause 103, page 131, line 26, leave out "court" and insert "tribunal"

Member's explanatory statement
This amendment is consequential on the new Clause (Transfer of jurisdiction of courts to tribunals).

LORD CLEMENT-JONES

Clause 103, page 131, line 34, leave out "court" and insert "tribunal"

Member's explanatory statement
This amendment is consequential on the new Clause (Transfer of jurisdiction of courts to tribunals).

LORD CLEMENT-JONES

★ Clause 103, page 131, line 35, leave out "court" and insert "tribunal"

Member's explanatory statement
This amendment is consequential on the new Clause (Transfer of jurisdiction of courts to tribunals).

LORD CLEMENT-JONES

Clause 103, page 132, line 2, leave out "court" and insert "tribunal"

Member's explanatory statement
This amendment is consequential on the new Clause (Transfer of jurisdiction of courts to tribunals).

After Clause 103

LORD CLEMENT-JONES

After Clause 103, insert the following new Clause—

"Right of appeal against Commissioner's decision on complaint

(1) The 2018 Act is amended as follows.

(2) After section 166 insert—

"166A Appeals against decisions on complaints

(1) This section applies where a data subject makes a complaint under section 165 or Article 77 of the UK GDPR and the Commissioner makes a decision on the complaint.

(2) The data subject may appeal to the Tribunal against all or any part of the decision.

(3) The Tribunal must determine any appeal under this section on the merits by reference to the grounds of appeal set out in the notice of appeal.

(4) The Tribunal may review any determination of fact on which the decision against which the appeal is brought was based.

(5) If the Tribunal considers—

(a) that the decision against which the appeal is brought is not in accordance with the law, or

(b) to the extent that the decision involved an exercise of discretion by the Commissioner, that the Commissioner ought to have exercised the discretion differently,

the Tribunal must allow the appeal.

(6) Where the Tribunal allows the appeal, the Tribunal must set aside the decision and—

(a) remit the complaint to the Commissioner, or

(b) vary the decision.

(7) The power to vary the decision of the Commissioner includes the power to substitute another decision which the Commissioner could have given or made.

(8) Otherwise, the Tribunal must dismiss the appeal."

(3) In section 202 (proceedings in the First-tier Tribunal: contempt), in subsection (1)(a)(ii) after "166" insert "or 166A".

(4) In section 203 (Tribunal Procedure Rules), in subsection (1)(b) after "166" insert "or 166A"."

Member's explanatory statement
This new Clause seeks to address the jurisdictional confusion in the 2018 Act, in addition to the new Clause (Transfer of jurisdiction of courts to tribunals).

LORD CLEMENT-JONES

After Clause 103, insert the following new Clause—

"Procedure for Tribunal Procedure Rules

(1) The first time after the passing of this Act that Tribunal Procedure Rules are made for the purposes of section 203 of the 2018 Act (Tribunal Procedure Rules) in connection with any amendment made by this Act to that Act, the Rules may be made by the Lord Chancellor rather than by the Tribunal Procedure Committee.

(2) Before making Tribunal Procedure Rules by virtue of subsection (1), the Lord Chancellor must consult—

(a) the Senior President of Tribunals;

(b) the Lord Chief Justice of England and Wales;

(c) the Lord President of the Court of Session;

(d) the Lord Chief Justice of Northern Ireland.

(3) The Lord Chancellor is not required to undertake any other consultation before making Tribunal Procedure Rules by virtue of subsection (1).

(4) A requirement to consult under subsection (2) may be satisfied by consultation that took place wholly or partly before the passing of this Act.

(5) Tribunal Procedure Rules made by virtue of subsection (1) are to be made by statutory instrument.

(6) A statutory instrument containing Tribunal Procedure Rules made by virtue of subsection (1) must be laid before Parliament after being made.

(7) Tribunal Procedure Rules contained in a statutory instrument laid before Parliament under subsection (6) cease to have effect at the end of the period of 40 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.

(8) In calculating the period of 40 days, no account is to be taken of any whole days that fall within a period during which—

(a) Parliament is dissolved or prorogued; or

(b) either House of Parliament is adjourned for more than four days.

(9) If Tribunal Procedure Rules cease to have effect as a result of subsection (7)—

(a) that does not affect the validity of anything previously done under the Rules; and

(b) subsection (1) applies again as if the Rules had not been made.

(10) In this section "Tribunal Procedure Committee" means the committee of that name constituted under Part 2 of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007."

Member's explanatory statement
This new Clause allows the Lord Chancellor to make Tribunal Procedure Rules instead of the Tribunal Procedure Committee for the purposes of the new Clause (Transfer of jurisdiction of courts to tribunals) for the first time, to allow expedition and flexibility.

After Clause 104

LORD CLEMENT-JONES

After Clause 104, insert the following new Clause—

"Transfer of jurisdiction of courts to tribunals

In Schedule (*Amendments to the 2018 Act: Transfer of jurisdiction of courts to tribunals*)—

(a) Part 1 makes provision for and in connection with the transfer of the jurisdiction of courts to tribunals in the 2018 Act; and

(b) Part 2 makes transitional provision in connection with the amendments made by Part 1 of that Schedule."

Member's explanatory statement
This new Clause, and the related new Schedule, seek to address voluminous judgments of certain courts and tribunals (in particular, Killock and others v Information Commissioner [2021] UKUT

AAC (299) and R (Delo) v Information Commissioner [2023] EWCA Civ 1141; [2022] EWHC 3046 (Admin)), of the jurisdictional confusion in the Data Protection Act 2018, by transferring the jurisdiction of courts to tribunals to create a simplified appeals system in the tribunals.

Before Schedule 11

LORD CLEMENT-JONES

Before Schedule 11, insert the following new Schedule—

"SCHEDULE

AMENDMENTS TO THE 2018 ACT: TRANSFER OF JURISDICTION OF COURTS TO TRIBUNALS

PART 1

TRANSFER OF JURISDICTION

1 The 2018 Act is amended as follows.

2 In section 44(5)(e) (information: controller's general duties), for "court" substitute "tribunal".

3 In section 45(5)(e) (right of access by the data subject), for "court" substitute "tribunal".

4 (1) Section 48 (rights under sections 46 or 47: supplementary) is amended as follows.

(2) In subsection (1)(b)(iv) for "court" substitute "tribunal".

(3) In subsection (4)(d) for "court" substitute "tribunal".

5 In section 51(5) (exercise of rights through the Commissioner), for "court" substitute "tribunal".

6 (1) Section 94 (right of access) is amended as follows.

(2) In subsection (11), in both instances, for "court" substitute "tribunal".

(3) In subsection (12), for "court" substitute "tribunal".

(4) In subsection (13), for first "court" substitute "tribunal".

(5) In subsection (13), for "the High Court or, in Scotland, by the Court of Session" substitute "the Upper Tribunal".

7 (1) Section 99 (right to object to processing) is amended as follows.

(2) In subsection (5), in every instance, for "court" substitute "tribunal".

(3) In subsection (6), for "court" substitute "tribunal".

(4) In subsection (7), for first "court" substitute "tribunal".

(5) In subsection (7), for "the High Court or, in Scotland, by the Court of Session" substitute "the Upper Tribunal".

8 (1) Section 100 (rights to rectification and erasure) is amended as follows.

(2) In subsection (1), in both instances, for "court" substitute "tribunal".

(3) In subsection (2), in both instances, for "court" substitute "tribunal".

(4) In subsection (3), for "court" substitute "tribunal".

(5) In subsection (4), in both instances, for "court" substitute "tribunal".

(6) In subsection (5), in both instances, for "court" substitute "tribunal".

(7) In subsection (6), for first "court" substitute "tribunal".

(8) In subsection (6), for "the High Court or, in Scotland, by the Court of Session" substitute "the Upper Tribunal".

9 (1) Section 145 (information orders) is amended as follows.

(2) In subsection (1), for "court" substitute "tribunal".

(3) In subsection (2), in both instances, for "court" substitute "tribunal".

10 (1) Section 152 (enforcement notices: restrictions) is amended as follows.

(2) In subsection (1)(b), for "court" substitute "tribunal".

(3) In subsection (2), in both instances, for "court" substitute "tribunal".

11 (1) Section 156 (penalty notices: restrictions) is amended as follows.

(2) In subsection (1)(b), for "court" substitute "tribunal".

(3) In subsection (2), in both instances, for "court" substitute "tribunal".

12 (1) Section 164 (applications in respect of urgent notices) is amended as follows.

(2) In subsection (2), for "court" substitute "tribunal".

(3) In subsection (3), for "court" substitute "tribunal".

(4) In subsection (4), for "court" substitute "tribunal".

13 In the italic heading before section 165 (complaints by data subjects), after "Complaints" insert "and remedies in the tribunal".

14 Omit the italic heading before section 167 (compliance orders).

15 (1) Section 167 (compliance orders) is amended as follows.

(2) In subsection (1), for "court" substitute "tribunal".

(3) In subsection (2), for "court" substitute "tribunal".

(4) In subsection (5), for "court" substitute "tribunal".

16 (1) Section 168 (compensation for contravention of the UK GDPR) is amended as follows.

(2) In subsection (2)(a), for "rules of court" substitute "Tribunal Procedure Rules".

(3) In subsection (2)(b), for "court" substitute "tribunal".

(4) In subsection (3) in both instances, for "court" substitute "tribunal".

17 (1) Section 175 (provision of assistance in special purposes proceedings) is amended as follows.

(2) In subsection (7), for "rules of court" substitute "Tribunal Procedure Rules".

(3) In subsection (7)(a), for "court" substitute "tribunal".

(4) In subsection (8), for "rules of court" substitute "Tribunal Procedure Rules".

(5) In subsection (8)(a), for "court" substitute "tribunal".

18 (1) Section 176 (staying special purposes proceedings) is amended as follows.

(2) In subsection (1), in every instance, for "court" substitute "tribunal".

(3) In subsection (3), for "court" substitute "tribunal".

19 In section 177(5)(b) (guidance about how to seek redress against media organisations) for "court" substitute "tribunal".

20 In the italic cross heading before section 180 (jurisdiction) for "courts" substitute "tribunals".

21 (1) Section 180 (jurisdiction) is amended as follows.

(2) For subsection (1) substitute—

"(1) The jurisdiction conferred on a tribunal by the provisions listed in subsection (2) are exercisable by the First-tier tribunal, subject to subsections (3), (4) and (5).".

(3) In subsection (3), for "the High Court or, in Scotland, the Court of Session" substitute "the Upper Tribunal".

(4) In subsection (4) for first "court" substitute "tribunal".

(5) In subsection (4), for "the High Court or, in Scotland, the Court of Session" substitute "the Upper Tribunal".

(6) In subsection (5), for "the High Court or, in Scotland, the Court of Session" substitute "the Upper Tribunal".

22 In section 202 (proceedings in the First-tier Tribunal: contempt), for subsection (1)(a) substitute—

"(a) person does something, or fails to do something, in relation to proceedings before the First-tier Tribunal under sections 27, 45, 46, 51, 79, 94, 99, 100, 111, 162, 166, 167, 168, 175, 176, 177, and"

23 In section 203 (Tribunal Procedure Rules), for subsection (1) substitute—

"(1) Tribunal Procedure Rules may make provision for regulating—

(a) the exercise of the rights of appeal conferred by, or

(b) the rights of data subjects (including their exercise by a representative body) under,

sections 27, 45, 46, 51, 79, 94, 99, 100, 111, 162, 166, 167, 168, 175, 176, 177."

PART 2

TRANSITIONAL PROVISION

24 Any proceedings before a relevant court listed in paragraph 26 which are pending immediately before this Schedule comes into force must continue on after this Schedule comes into force as proceedings before the Upper Tribunal.

25 Any proceedings before a relevant court listed in paragraph 27 which are pending immediately before this Schedule comes into force must continue on after this Schedule comes into force as proceedings before the First-tier Tribunal.

26 The relevant courts listed in this paragraph are—

(a) in England and Wales, the High Court;

(b) in Scotland, the Court of Session;

(c) in Northern Ireland, the High Court.

27 The relevant courts listed in this paragraph are—

(a) in England and Wales, the County Court;

(b) in Scotland, the sheriff;

(c) in Northern Ireland, a county court.

28 It is immaterial the stage of the proceedings in the court before the proceedings are transferred.

29 The Upper Tribunal may by order transfer any proceedings automatically transferred to it from a court in pursuance of this Schedule to the First-tier Tribunal, if the Upper Tribunal considers it appropriate.

30 The Upper Tribunal may by order transfer any proceedings from the First-tier Tribunal to the Upper Tribunal which have been automatically transferred to the First-tier Tribunal from a court in pursuance of this Schedule, if the Upper Tribunal considers it appropriate.

31 The First-tier Tribunal may by order transfer any proceedings automatically transferred to it from a court in pursuance of this Schedule to the Upper Tribunal, if the First-tier Tribunal considers it appropriate.

32 The decision to transfer proceedings under this Schedule is final and is not liable to be questioned in any court or tribunal."

Member's explanatory statement

This new Schedule, and the related new Clause, seek to address voluminous judgments of certain courts and tribunals (in particular, Killock and others v Information Commissioner [2021] UKUT AAC (299) and R (Delo) v Information Commissioner [2023] EWCA Civ 1141; [2022] EWHC 3046 (Admin)), of the jurisdictional confusion in the Data Protection Act 2018, by transferring the jurisdiction of courts to tribunals to create a simplified appeals system in the tribunals.

Clause 109

LORD LUCAS

Clause 109, page 139, line 14, after "individuals" insert "and does not include communications that are necessary to avoid harm or improve consumer outcomes when complying with a legal basis or legislative measure provided by a regulatory authority"

Member's explanatory statement
This amendment would ensure that financial services firms are able to comply with current and future regulatory requirements, such as the FCA's new Consumer Duty, which expect firms to communicate with customers to ensure good customer outcomes. This amendment aligns to the wording of the UK GDPR (Recital 41) and includes Consumer Duty language of avoiding harm/improving outcomes.

Schedule 12

LORD CLEMENT-JONES

Schedule 12, page 219, line 12, at the end insert—

"(4) The means by which the subscriber or user may signify consent may not require the subscriber or user to make a payment in order to signify their consent to the storage or access."

Member's explanatory statement
This amendment would ban cookie paywalls.

LORD CLEMENT-JONES

★ Schedule 12, page 220, line 15, at end insert—

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

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

After Clause 114

LORD LUCAS

After Clause 114, insert the following new Clause—

"Extending the soft opt-in to workplace pensions

(1) Regulation 22 of the PEC Regulations (use of electronic mail for direct marketing purposes) is amended as follows.

(2) In paragraph (2), after "paragraph (3)" insert "or (3A)".

(3) After paragraph (3) insert—

"(3A) A person may send or instigate the sending of electronic mail for the purposes of direct marketing where—

(a) that person has obtained the contact details of the recipient of that electronic mail in the course of establishing a product or service for the benefit of that recipient as instructed by or on behalf of the employer of that recipient fulfilling a legislative requirement;

(b) the direct marketing is in respect of that person's product or service established for the recipient or that person's similar products and services only;

(c) the recipient is given, at the time of each communication, a simple means of refusing (free of charge except for the costs of the transmission of the refusal) the use of their contact details for the purposes of such direct marketing.""

Member's explanatory statement
This is to rectify an unintended consequence of the UK's Automatic Enrolment policy, where it is employers who set up pension arrangements. Individuals, therefore, often have not been given the opportunity to consent to receive communications for that product, meaning that they may be losing out on engaging and helpful content from their pension provider. This amendment gives that individual the opportunity to opt-out of direct marketing where previously they did not have the opportunity to opt-in.

LORD CLEMENT-JONES
LORD BLACK OF BRENTWOOD

After Clause 114, insert the following new Clause—

"Soft opt-in for email marketing for charities

(1) Regulation 22 of the PEC Regulations (use of electronic mail for direct marketing purposes) is amended as follows.

(2) In paragraph (2), after "paragraph (3)" insert "or (3A)".

(3) After paragraph (3) insert—

"(3A) A person may send or instigate the sending of electronic mail for the purposes of direct marketing where—

(a) the direct marketing is solely for the purpose of furthering a charitable objective of that person,

(b) that person obtained the contact details of the recipient of the electronic mail in the course of the recipient expressing an interest in or offering or providing support for the furtherance of that objective or a similar objective, and

(c) the recipient has been given a simple means of refusing (free of charge except for the costs of the transmission of the refusal) the use of their contact details for the purposes of such direct marketing, at the time that the details were initially collected, and, where the recipient did not initially refuse the use of the details, at the time of each subsequent communication.""

Member's explanatory statement
This amendment will enable charities to communicate to donors in the same way that businesses have been able to communicate to customers since 2003. The clause will help facilitate greater fundraising and support the important work charities do for society.

Schedule 15

LORD CLEMENT-JONES

★ Schedule 15, page 242, line 33, after "or" insert "existing and future"

Member's explanatory statement
This is part of a package of amendments that to clarify that these Information Standards should explicitly apply to IT providers involved in the processing of data within primary care, as well as secondary care, and that the standards must extend to existing contracts with IT providers, not just new agreements formed after the passage of this Act.

LORD CLEMENT-JONES

★ Schedule 15, page 243, line 35, after "technology," insert "including NHS patient records,"

Member's explanatory statement
This is part of a package of amendments that to clarify that these Information Standards should explicitly apply to IT providers involved in the processing of data within primary care, as well as secondary care, and that the standards must extend to existing contracts with IT providers, not just new agreements formed after the passage of this Act.

LORD CLEMENT-JONES

★ Schedule 15, page 243, line 39, at end insert "or of primary care, including General Practice."

Member's explanatory statement
This is part of a package of amendments that to clarify that these Information Standards should explicitly apply to IT providers involved in the processing of data within primary care, as well as secondary care, and that the standards must extend to existing contracts with IT providers, not just new agreements formed after the passage of this Act.

Clause 123

BARONESS KIDRON
LORD RUSSELL OF LIVERPOOL
LORD STEVENSON OF BALMACARA
BARONESS HARDING OF WINSCOMBE

Clause 123, page 153, line 6, leave out "may by regulations" and insert "must, as soon as reasonably practicable and no later than 12 months after the day on which this Act is passed, make and lay regulations to"

Member's explanatory statement
This amendment removes the Secretary of State's discretion on whether to lay regulations under Clause 123 and sets a time limit for laying them before Parliament.

BARONESS KIDRON
LORD RUSSELL OF LIVERPOOL
LORD STEVENSON OF BALMACARA
BARONESS HARDING OF WINSCOMBE

Clause 123, page 153, line 16, at end insert—

"(da) requirements to facilitate independent research into online safety matters as they relate to people at different ages and stages of development, and people with different characteristics including gender, race, ethnicity, disability, sexuality, gender;"

Member's explanatory statement
This amendment seeks to ensure the regulations will enable independent researchers to research how online risks and harms impact different groups especially vulnerable users including children.

After Clause 132

LORD LUCAS

After Clause 132, insert the following new Clause—

"Data dictionary

(1) The Secretary of State may make regulations establishing the definitions of terms used to describe data, and may require that these definitions are used in relation to—

(a) Parts 2 (digital verification services) and 4 (registers of births and deaths) of this Act, and

(b) public data in general.

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

Member's explanatory statement
This amendment is to ensure consistency of definition of key terms (as requested by CoPilot) across government and over time, e.g. definitions of "sex" and "gender".

LORD LUCAS

After Clause 132, insert the following new Clause—

"Fraud reporting

(1) The Secretary of State may by regulations make provision requiring all reports of attempted fraud to be logged on a central database.

(2) If regulations are made under subsection (1), the Secretary of State must, annually, lay a report before Parliament on the levels and types of fraud attempted, success rates, and action taken to combat it.

(3) Regulations under this section are subject to the negative resolution procedure."

Member's explanatory statement
This amendment is to raise the standard of recording of online fraud and to focus attention on combating it.

LORD LUCAS

After Clause 132, insert the following new Clause—

"Schools admissions data

(1) The Secretary of State must by regulations make provision requiring all schools admissions authorities in England to contribute to a public register, online and in a specified format, by 1 September each year, their schools admissions rules for the forthcoming year and the outcomes of their schools admissions process for the year just beginning.

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

Member's explanatory statement
This amendment is to create a national register of schools admissions rules and outcomes, so that parent may obtain a complete and consistent picture of which schools are likely to be available to their children.

BARONESS KIDRON
LORD CLEMENT-JONES
LORD BETHELL
LORD RUSSELL OF LIVERPOOL

After Clause 132, 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 AI- 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, "AI- or computer-generated child sexual abuse material or priority illegal content" includes images, videos, audio including voice, chatbots, material generated by large language models, written text, computer files 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 (possession of indecent photograph of child) and section 6 of the Protection of Children Act 1978 (punishments) 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
It is illegal in the UK to possess or distribute child sexual abuse material including AI- or computer-generated child sexual abuse material. However, while the content is clearly covered by existing law, the mechanism that enables their creation – i.e. the files trained on or trained to create such material – is not. This amendment seeks to address that gap.

BARONESS KIDRON
LORD FREYBERG
LORD STEVENSON OF BALMACARA

After Clause 132, insert the following new Clause—

"Compliance with UK copyright law by operators of web crawlers and general-purpose AI models

(1) The Secretary of State must by regulations make provisions clarifying the steps the operators of web crawlers and general-purpose artificial intelligence (AI) models must take to comply with United Kingdom copyright law, including the Copyright, Designs and Patents Act 1988.

(2) The provisions made under subsection (1) must apply if the products and services of such operators are marketed in the United Kingdom.

(3) The provisions made under subsection (1) must apply to the entire lifecycle of a general-purpose AI model, including but not limited to—

(a) pre-training,
(b) fine tuning, and
(c) grounding and retrieval-augmented generation.

(4) The Secretary of State must lay before Parliament a draft of the statutory instrument containing regulations under subsection (1) within six months of the day on which this Act is passed and the regulations are subject to the affirmative procedure."

Member's explanatory statement
This amendment would require operators of internet scrapers and general-purpose AI models to comply with UK copyright law, and to abide by a set of procedures.

BARONESS KIDRON
LORD FREYBERG
LORD STEVENSON OF BALMACARA
LORD CLEMENT-JONES

After Clause 132, insert the following new Clause—

"Transparency of crawler identity, purpose, and segmentation

(1) The Secretary of State must by regulations make provision requiring operators of web crawlers and general-purpose artificial intelligence (AI) models to disclose information regarding the identity of their crawlers, including but not limited to—

(a) the name of the crawler,
(b) the legal entity responsible for the crawler,
(c) the specific purposes for which each crawler is used,
(d) the legal entities to which they provide data scraped by the crawlers they operate, and

(e) a single point of contact to enable copyright holders to communicate with them and to lodge complaints about the use of their copyrighted works.

(2) The information disclosed under subsection (1) must be available on an easily accessible platform and updated at the same time as any change.

(3) The Secretary of State must by regulations make provision requiring operators of web crawlers and general-purpose AI models to deploy distinct crawlers for different purposes, including but not limited to—

(a) web indexing for search engine results pages,

(b) general-purpose AI model pre-training, and

(c) retrieval-augmented generation.

(4) The Secretary of State must by regulations make provision requiring operators of web crawlers and general-purpose AI models to ensure that the exclusion of a crawler by a copyright holder does not negatively impact the findability of the copyright holder's content in a search engine.

(5) The Secretary of State must lay before Parliament a draft of the statutory instrument containing regulations under this section within six months of the day on which this Act is passed and the regulations are subject to the affirmative procedure."

Member's explanatory statement
This amendment would require operators of internet crawlers and general-purpose AI models to be transparent about the identity and purpose of their crawlers; operate distinct crawlers for different purposes; and not penalise copyright holders who choose to deny scraping for AI by downranking their content in, or removing their content from, a search engine.

BARONESS KIDRON
LORD FREYBERG
LORD STEVENSON OF BALMACARA
LORD CLEMENT-JONES

After Clause 132, insert the following new Clause—

"Transparency of copyrighted works scraped

(1) The Secretary of State must by regulations make provision requiring operators of web crawlers and general-purpose artificial intelligence (AI) models to disclose information regarding copyrighted works their crawlers have scraped, including but not limited to—

(a) the URLs accessed,

(b) information that can be used to identify individual works,

(c) the timeframe of data collection, and

(d) the type of data collected.

(2) The disclosure of information under subsection (1) must be updated on a monthly basis and be accessible to the copyright holder upon request.

(3) The Secretary of State must lay before Parliament a draft of the statutory instrument containing regulations under subsection (1) within six months of the day on which this Act is passed and the regulations are subject to the affirmative procedure."

Member's explanatory statement
This amendment would require operators of web crawlers and general-purpose AI models to be transparent about the copyrighted works they have scraped, allowing copyright holders to understand when their work has been scraped.

BARONESS KIDRON
LORD CLEMENT-JONES
LORD ARBUTHNOT OF EDROM

★ After Clause 132, insert the following new Clause—

"Reliability of computer-based evidence

(1) Electronic evidence produced by or derived from a computer, device or computer system (separately or together "system") is admissible as evidence in any proceedings—
  (a) where that electronic evidence and the reliability of the system that produced it or from which it is derived are not challenged;
  (b) where the court is satisfied that the reliability of the system cannot reasonably be challenged;
  (c) where the court is satisfied that the electronic evidence is derived from a reliable system.

(2) Rules of Court must provide that electronic evidence sought to be relied upon by a party in any proceedings may be challenged by another party as to its admissibility.

(3) For the purposes of subsection (1)(b), Rules of Court must provide for the circumstances in which the Court may be satisfied that the admissibility of electronic evidence cannot reasonably be challenged.

(4) When determining whether a system is reliable for the purposes of subsection (1)(c) the matters that may be taken into account include—
  (a) any instructions or rules of the system that apply to its operation;
  (b) any measures taken to secure the integrity of data held on the system;
  (c) any measures taken to prevent unauthorised access to and use of the system;
  (d) the security of the hardware and software used by the system;
  (e) any measures taken to monitor and assess the reliability of the system by the system controller or operator including steps taken to fix errors or address unexpected outcomes including the regularity of and extent of any audit of the system by an independent body;
  (f) any assessment of the reliability of the system made by a body with supervisory or regulatory functions;

(g) the provisions of any scheme or industry standard that apply in relation to the system.

(5) For the purposes of this section—

"computer" means any device capable of performing mathematical or logical instructions;

"device" means any apparatus or tool operating alone or connected to other apparatus or tools, that processes information or data in electronic form;

"electronic evidence" means evidence derived from data contained in or produced by any device the functioning of which depends on a software program or from data stored on a computer, device or computer system or communicated over a networked computer system."

Member's explanatory statement

This amendment overturns the current legal assumption that evidence from computers is always reliable which has contributed to miscarriages of justice including the Horizon Scandal. It enables courts to ask questions of those submitting computer evidence about its reliability.

Clause 135

BARONESS JONES OF WHITCHURCH

Clause 135, page 168, line 26, at end insert—

"(5A) The power conferred by section 63(3) of the Immigration, Asylum and Nationality Act 2006 may be exercised so as to extend to the Bailiwick of Guernsey or the Isle of Man any amendment made by section 55 of this Act of any part of that Act (with or without modification or adaptation).

(5B) The power conferred by section 76(6) of the Immigration Act 2014 may be exercised so as to extend to the Bailiwick of Guernsey or the Isle of Man any amendment made by section 55 of this Act of any part of that Act (with or without modifications).

(5C) The power conferred by section 95(5) of the Immigration Act 2016 may be exercised so as to extend to the Bailiwick of Guernsey or the Isle of Man any amendment made by section 55 of this Act of any part of that Act (with or without modifications)."

Member's explanatory statement

The immigration legislation amended by Clause 55 may be extended to the Channel Islands or the Isle of Man. This amendment provides that the amendments made by Clause 55 may be extended to the Bailiwick of Guernsey or the Isle of Man.

BARONESS JONES OF WHITCHURCH

Clause 135, page 168, line 26, at end insert—

"(5A) The power conferred by section 239(7) of the Online Safety Act 2023 may be exercised so as to extend to the Bailiwick of Guernsey or the Isle of Man any

amendment or repeal made by this Act of any part of that Act (with or without modifications)."

Member's explanatory statement
This amendment provides that amendments of the Online Safety Act 2023 made by the Bill (see Clauses 122 and 123) may, like the other provisions of that Act, be extended to the Bailiwick of Guernsey or the Isle of Man.

Data (Use and Access) Bill [HL]

RUNNING LIST OF ALL

AMENDMENTS IN GRAND COMMITTEE

Tabled up to and including

27 November 2024

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