Data (Use and Access) Bill [HL]

FOURTH MARSHALLED

LIST OF AMENDMENTS

TO BE MOVED

IN GRAND COMMITTEE

The amendments have been marshalled in accordance with the Instruction of 19th November 2024, as follows—

Clauses 1 to 56	Schedule 10
Schedule 1	Clauses 103 to 107
Clauses 57 and 58	Schedule 11
Schedule 2	Clauses 108 to 111
Clauses 59 to 65	Schedule 12
Schedule 3	Clauses 112 and 113
Clauses 66 to 70	Schedule 13
Schedule 4	Clauses 114 and 115
Clause 71	Schedule 14
Schedule 5	Clauses 116 to 119
Clauses 72 to 80	Schedule 15
Schedule 6	Clause 120
Clauses 81 to 84	Schedule 16
Schedules 7 to 9	Clauses 121 to 138
Clauses 85 to 102	Title

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

Amendment No.

Clause 90

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

135 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.

After Clause 90

LORD LUCAS

135A After Clause 90, insert the following new Clause—

"Strategic priorities

(1) The 2018 Act is amended as follows.

(2) After section 120D (inserted by section 90 of this Act) insert—

"Strategic priorities

120E Designation of statement of strategic priorities

(1) The Secretary of State may designate a statement as the statement of strategic priorities for the purposes of this Part if the requirements set out in section 120H are satisfied.

(2) The statement of strategic priorities is a statement prepared by the Secretary of State that sets out the strategic priorities of His Majesty's Government relating to data protection.

(3) The Secretary of State must publish the statement of strategic priorities (including any amended statement following a review under section 120G) in whatever manner the Secretary of State considers appropriate.

120F Duties of the Commissioner in relation to strategic priorities

(1) The Commissioner must have regard to the statement of strategic priorities when carrying out functions under the data protection legislation.

(2) The duty in subsection (1) does not apply when the Commissioner is carrying out functions in relation to a particular person, case or investigation.

(3) Where the Secretary of State designates a statement as the statement of strategic priorities (including any amended statement following a review under section 120G), the Commissioner must—

(a) explain in writing how they will have regard to the statement when carrying out functions under the data protection legislation, and

(b) publish a copy of that explanation.

(4) The duty in subsection (3) must be complied with—

(a) within the period of 40 days beginning when the Secretary of State designates the statement, or

(b) within whatever longer period the Secretary of State may allow.

(5) In calculating the period of 40 days mentioned in subsection (4)(a), no account is to be taken of—

(a) Saturdays or Sundays,

(b) Christmas Day or Good Friday, or

(c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

120G Review of designated statement

(1) The Secretary of State must review the statement of strategic priorities if a period of 3 years has elapsed since the relevant time.

(2) The "relevant time", in relation to the statement of strategic priorities, means—

(a) the time when the statement was first designated under section 120E, or

(b) if later, the time when a review of the statement under this section last took place.

(3) The Secretary of State may review the statement of strategic priorities at any other time if—

(a) a Parliamentary general election has taken place since the relevant time,

(b) they consider that a significant change in the policy of His Majesty's Government relating to data protection has occurred since the relevant time, or

(c) the Parliamentary requirement in relation to an amended statement was not met on the last review (see subsection (10)).

(4) On a review under this section, the Secretary of State may—

(a) amend the statement (including by replacing the whole or part of the statement with new content),

(b) leave the statement as it is, or

(c) withdraw the statement's designation as the statement of strategic priorities.

(5) A statement amended under subsection (4)(a) has effect only if the Secretary of State designates the amended statement as the statement of strategic priorities under section 120E (and the requirements set out in section 120H apply in relation to any such designation).

(6) Where the designation of a statement is withdrawn under subsection (4)(c), the Secretary of State must publish notice of the withdrawal in whatever manner the Secretary of State considers appropriate.

(7) For the purposes of this section, corrections of clerical or typographical errors are not to be treated as amendments of the statement.

(8) The designation of a statement as the statement of strategic priorities ceases to have effect upon a subsequent designation of an amended statement as the statement of strategic priorities in accordance with subsection (5).

(9) For the purposes of subsection (2)(b), a review of a statement takes place—

(a) in the case of a decision on the review to amend the statement under subsection (4)(a)—

(i) at the time when the amended statement is designated as the statement of strategic priorities under section 120E, or

(ii) if the amended statement is not so designated,

at the time when the amended statement was laid before Parliament under section 120H(1);

(b) in the case of a decision on the review to leave the statement as it is under subsection (4)(b), at the time when that decision is taken.

(10) For the purposes of subsection (3)(c), the Parliamentary requirement in relation to an amended statement was not met on the last review if—

(a) on the last review of the statement of strategic priorities to be held under this section, an amended statement was laid before Parliament under section 120H(1), but

(b) the amended statement was not designated because within the period mentioned in section 120H(2) either House of Parliament resolved not to approve it.

120H Parliamentary procedure

(1) Before the Secretary of State designates a statement as the statement of strategic priorities, the Secretary of State must lay the statement before Parliament.

(2) The Secretary of State must then wait until the end of the 40-day period and may not designate the statement if, within that period, either House of Parliament resolves not to approve it.

(3) "The 40-day period" means—

(a) if the statement is laid before both Houses of Parliament on the same day, the period of 40 days beginning with that day, or

(b) if the statement is laid before the Houses of Parliament on different days, the period of 40 days beginning with the later of those days.

(4) In calculating the 40-day period, no account is to be taken of any whole days that fall within a period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days."

(3) In section 139 (reporting to Parliament), in subsection (1A) (inserted by section 90 of this Act), at the end insert—

"(c) a review of how the Commissioner has had regard to the statement of strategic priorities during the reporting period."

(4) In section 205(2) (references to periods of time), after paragraph (za) insert—

"(zb) section 120H(3) and (4);"

(5) In the Table in section 206 (index of defined expressions), at the appropriate place insert "statement of strategic priorities (in Part 5) | section 120E"."

Member's explanatory statement
This amendment would make provision for the introduction of a Statement of Strategic Priorities setting out the government's data protection priorities to which the Commissioner must have regard, and the related duties of the Commissioner in relation to the Statement.

Clause 91

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 91 stand part of the Bill.

Clause 92

BARONESS JONES OF WHITCHURCH

136 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.

LORD CLEMENT-JONES

Lord Clement-Jones gives notice of his intention to oppose the Question that Clause 92 stand part of the Bill.

After Clause 92

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

137 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
BARONESS KIDRON

138 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.

BARONESS KIDRON
LORD STEVENSON OF BALMACARA
LORD CLEMENT-JONES
LORD KNIGHT OF WEYMOUTH

139 After Clause 92, insert the following new Clause—

"Code of practice on data communities

(1) The Commissioner must prepare a code of practice which contains—

(a) practical guidance on establishing, operating and joining a data community,

(b) practical guidance for data controllers and data processors on responding to requests made by data communities, and

(c) such other guidance as the Commissioner considers appropriate to promote good practice in all aspects of data communities schemes.

(2) The data subject has the right to specify which data and which rights over that data they assign to the data community for what purpose and for how long, with respect to which data controllers.

(3) In this section—

"good practice in data community" means such practice in as appears to the Commissioner to be desirable having regard to the interests of data subjects whose data forms part of a data community, including compliance with the requirements mentioned in subsection (1)."

Member's explanatory statement
This amendment requires the Commissioner to draw up a code of practice setting out the way in which data communities must operate and the requirements on data controllers and processors when engaging with data rights activation requests from data communities. In addition to the code of conduct, there would also be the full range of protections already in place with respect to any controller. It is one of a series of amendments that would establish the ability to assign data rights to a third party.

BARONESS KIDRON
LORD STEVENSON OF BALMACARA
LORD CLEMENT-JONES

140 After Clause 92, insert the following new Clause—

"Register and oversight of data communities

(1) The Information Commissioner must maintain a register of data communities and make the register publicly available.

(2) The criteria for suitability for inclusion in the register will be set out in the Code of Practice on Data Communities.

(3) The Information Commissioner must create a complaints mechanism to receive, review and adjudicate complaints raised by data subjects about a data community controller.

(4) Complaints under subsection (3) can only be based on a failure to meet the standards set out in the Code of Practice on Data Communities.

(5) The Information Commissioner must create a complaints mechanism to receive, review and adjudicate complaints raised by a data community controller on behalf of its members about a data controller or processor.

(6) Complaints under subsection (5) must be based on a failure to meet the standards set out in the Code of Practice on Data Communities."

Member's explanatory statement
This amendment ensures that data communities operate transparently and are subject to regulatory oversight. It is one of a series of amendments that would establish the ability to assign data rights to a third party. A data community controller will have the responsibilities assigned to a controller as well as additional protections as set out the proposed code of conduct.

BARONESS KIDRON
LORD KNIGHT OF WEYMOUTH
LORD RUSSELL OF LIVERPOOL
BARONESS HARDING OF WINSCOMBE

141 After Clause 92, insert the following new Clause—

"Code of practice on Children's Data and Education

(1) The Commissioner must prepare a code of practice which contains such guidance as the Commissioner considers appropriate on the processing of data in connection with the provision of education.

(2) Guidance under subsection (1) must include consideration of—
  (a) all aspects of the provision of education including learning, school management and safeguarding;
  (b) all types of schools and learning settings;

(c) the need for transparency and evidence of efficacy on the use of AI systems in the provision of education;

(d) the impact of profiling and automated decision-making on children's access to education opportunities;

(e) that children have a right to know what data about them is being generated, collected, processed, stored and shared;

(f) that those with parental responsibility have a right to know how their children's data is being generated, collected, processed, stored and shared;

(g) the safety and security of children's data;

(h) the need to ensure children's access to and use of counselling services and the exchange of information for safeguarding purposes are not restricted.

(3) In preparing a code or amendments under this section, the Commissioner must have regard to—

(a) the fact that children are entitled to a higher standard of protection than adults with regard to their personal data as set out in the UK GDPR, and the ICO's Age Appropriate Design code;

(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;

(d) the need to support innovation to enhance UK children's education and learning opportunities, including facilitating testing of novel products and supporting the certification and the development of standards;

(e) ensuring the benefits from product and service developed using UK children's data accrue to the UK.

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

(a) children,

(b) educators,

(c) parents,

(d) persons who appear to the Commissioner to represent the interests of children,

(e) the AI Safety Institute, and

(f) the relevant Education department for each nation of the United Kingdom.

(5) The Code applies to data processors and controllers that—

(a) are providing education in school or other learning settings;

(b) provide services or products in connection with the provision of education;

(c) collect children's data whilst they are learning;

(d) use education data, education data sets or pupil data to develop services and products;

(e) build, train or operate AI systems and models that impact children's learning experience or outcomes;

(f) are public authorities that process education data, education data sets or pupil data.

(6) The Commissioner must prepare a report, in consultation with the EdTech industry and other stakeholders set out in paragraph 3, on the steps required to develop a certification scheme under Article 42 of the UK GDPR, to enable the industry to demonstrate the compliance of EdTech services and products with the UK GDPR, and conformity with this Code.

(7) Where requested by an education service, evidence of compliance with this Code must be provided by relevant providers of commercial products and services in a manner that satisfies the education service's obligations under the Code.

(8) In this section—

"EdTech" means a service or product that digitise education functions including administration and management information systems, learning and assessment and safeguarding, including services or products used within school settings and at home on the recommendation, advice or instruction of a school;

"education data" means personal data that forms part of an educational record.

"education data sets" means anonymised or pseudonymised data sets that include Education Data or Pupil Data.

"efficacy" means that the promised learning outcomes can be evidenced.

"learning setting " means a place where children learn including schools, their home and extra-curricular learning services for example online and in-person tutors.

"pupil data" means personal data about a child collected whilst they are learning which does not form part of an educational record.

"safety and security" means that it has been adequately tested.

"school" means an entity that provides education to children in the UK including early years providers, nursery schools, primary schools, secondary schools, sixth form colleges, city technology colleges, academies, free schools, faith schools, special schools, state boarding schools, and private schools."

Member's explanatory statement

This amendment proposes a statutory Code of Practice on Children and Education to ensure that children benefit from heightened protections when their data is processed for purposes relating to education. Common standards across the sector will assists schools in procurement.

Clause 95

VISCOUNT CAMROSE
LORD MARKHAM

142 Clause 95, page 119, leave out line 16

Member's explanatory statement
This amendment prevents official notices from the Commissioner being sent via email.

VISCOUNT CAMROSE
LORD MARKHAM

143 Clause 95, page 120, leave out lines 11 and 12

Member's explanatory statement
The amendment removes the assumption that an email has been received within 48 hours of being sent.

After Clause 95

LORD CLEMENT-JONES

144 After Clause 95 insert the following new Clause—

"Provision about the use of reprimands under Article 58 of the UK GDPR

(1) The United Kingdom General Data Protection Regulation is amended as follows.

(2) In Article 58, paragraph 2, leave out point (b) and insert—

"(b) to issue not more than one reprimand over the course of three years to a controller or a processor where processing operations have infringed provisions of this Regulation.""

Member's explanatory statement
This amendment ensures that the Commissioner cannot over-rely on reprimands by limiting its powers to issuing only one to a given controller over a fixed period.

LORD CLEMENT-JONES

144A After Clause 95, insert the following new Clause—

"Duty to report: regulatory activity in United Kingdom nations

The Information Commissioner must publish an annual report on the regulatory activity they have undertaken in each constituent part of the United Kingdom."

Clause 101

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

145 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

146 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

147 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

148 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

149 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

150 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

151 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

152 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

153 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.

After Clause 107

LORD CLEMENT-JONES

154 After Clause 107, insert the following new Clause—

"Safeguards: exemptions etc from the UK GDPR

In Schedule 2 to the Data Protection Act 2018 (exemptions etc from the UK GDPR), after paragraph 1 insert—

"Safeguards

1A (1) Except where paragraphs 4, 26 or 27 are engaged, an exemption in this Schedule will not be applicable unless the decision to apply that exemption has been made in accordance with this paragraph.

(2) In this paragraph, "relevant listed GDPR provision" means the relevant listed GDPR provision in Parts I to 4 of this Schedule (other than paragraph 4).

(3) In this paragraph, "exemption" means a restriction within the meaning of Article 23(1) of the UK GDPR (restrictions).

(4) Where a controller wishes to rely on an exemption from a relevant listed GDPR provision, that decision must be made—

(a) on a case by case basis,

(b) separately in respect of each of the relevant listed GDPR provisions which are being restricted in accordance with the relevant provisions of this Schedule, and

(c) afresh on each occasion on which the controller considers an exemption to any of the relevant listed GDPR provisions.

(5) When making a decision to rely on an exemption, the controller must take into account all the circumstances of the case, including at least the following—

(a) any potential vulnerability of the data subject that is relevant to the decision,

(b) all the rights and freedoms of the data subject, and

(c) the need to ensure compliance with the UK GDPR.

(6) Where compliance with a particular provision listed in Article 23(1) of the UK GDPR (restrictions) and the relevant provisions of this Schedule enable the application of an exemption to the extent that compliance with the UK GDPR would be likely to prejudice a particular matter or activity specified in this Schedule, a decision to apply the exemption may be made only if—

(a) the application of that provision or those provisions would give rise to a substantial risk of prejudice to any of the matters mentioned in the relevant provision of Schedule 2,

(b) that risk outweighs the risk of prejudice to the interests of the data subject concerned that would arise if the exemption were to apply in relation to that provision or those provisions, and

(c) the application of the exemption in relation to that provision or those provisions is necessary and proportionate to the risks in the particular case.

Safeguards: record of decision that exemption applies

1B (1) Where a controller makes a decision mentioned in paragraph 1A(4) or (5), the controller must keep a record of it and the reasons for it.

(2) Where an exemption from a relevant listed GDPR provision has been applied, the controller must also inform the data subject of the decision unless, in the particular circumstances of the case, the controller considers that doing so may be prejudicial to any of the matters mentioned in the relevant provision of Schedule 2.""

Member's explanatory statement

This amendment ensures that the protections which have been applied to the immigration exemption in paragraph 4 of Schedule 2 to the Data Protection Act 2018 through the Data Protection Act 2018 (Amendment of Schedule 2 Exemptions) Regulations 2024 can apply across the board.

LORD CLEMENT-JONES

155 After Clause 107, insert the following new Clause—

"Safeguards: exemptions etc from the UK GDPR: health, social work, education and child abuse data

In Schedule 3 to the Data Protection Act 2018 (exemptions etc from the UK GDPR: health, social work, education and child abuse data), after paragraph 1 insert—

"Safeguards

1A (1) An exemption from the relevant listed GDPR provisions in this Schedule will not be applicable unless the decision to apply that exemption has been made in accordance with this paragraph 1A.

(2) In this paragraph, "relevant listed GDPR provision" means the relevant listed GDPR provision in this Schedule.

(3) In this paragraph, "exemption" means a restriction within the meaning of Article 23(1) of the UK GDPR (restrictions).

(4) Where a controller wishes to rely on an exemption from a relevant listed GDPR provision, that decision must be made—

(a) on a case by case basis,

(b) separately in respect of each of the relevant listed GDPR provisions which are being restricted in accordance with the relevant provisions of this Schedule, and

(c) afresh on each occasion on which the controller considers an exemption to any of the relevant listed GDPR provisions.

(5) When making a decision to rely on an exemption, the controller must take into account all the circumstances of the case, including at least the following—

(a) any potential vulnerability of the data subject that is relevant to the decision,

(b) all the rights and freedoms of the data subject, and

(c) the need to ensure compliance with the UK GDPR.

(6) Where compliance with a particular provision listed in Article 23(1) of the UK GDPR (restrictions) and the relevant provisions of this Schedule enable the application of an exemption to the extent that compliance with the UK GDPR would be likely to prejudice a particular matter or activity specified in this Schedule, a decision to apply the exemption may be made only if—

(a) the application of that provision or those provisions would give rise to a substantial risk of prejudice to any of the matters mentioned in the relevant provision of Schedule 3,

(b) that risk outweighs the risk of prejudice to the interests of the data subject concerned that would arise if the exemption were to apply in relation to that provision or those provisions, and

(c) the application of the exemption in relation to that provision or those provisions is necessary and proportionate to the risks in the particular case.

Safeguards: record of decision that exemption applies

1B (1) Where a controller makes a decision mentioned in paragraph 1A(4) or (5), the controller must keep a record of it and the reasons for it.

(2) Where an exemption from a relevant listed GDPR provision has been applied, the controller must also inform the data subject of the decision unless, in the particular circumstances of the case, the controller considers that doing so may be prejudicial to any of the matters mentioned in the relevant provision of Schedule 3.""

Member's explanatory statement

Schedule 3 contains exemptions from listed GDPR provisions in the context of health, social work education and child abuse data. This amendment extends the protections which now apply in the context of immigration to these areas.

LORD CLEMENT-JONES

156 After Clause 107, insert the following new Clause—

"Safeguards: exemptions etc from the UK GDPR: disclosure prohibited or restricted by an enactment

In Schedule 4 to the Data Protection Act 2018 (exemptions etc from the UK GDPR: disclosure prohibited or restricted by an enactment), after paragraph 1 insert—

"Safeguards

1A (1) An exemption from the relevant listed GDPR provisions in this Schedule will not be applicable unless the decision to apply that exemption has been made in accordance with this paragraph.

(2) In this paragraph, "relevant listed GDPR provision" means the relevant listed GDPR provision in Parts I to 4 of this Schedule (other than paragraph 4).

(3) In this paragraph, "exemption" means a restriction within the meaning of Article 23(1) of the UK GDPR (restrictions).

(4) Where a controller wishes to rely on an exemption from a relevant listed GDPR provision, that decision must be made—

(a) on a case by case basis,

(b) separately in respect of each of the relevant listed GDPR provisions which are being restricted in accordance with the relevant provisions of this Schedule, and

(c) afresh on each occasion on which the controller considers an exemption to any of the relevant listed GDPR provisions.

(5) When making a decision to rely on an exemption, the controller must take into account all the circumstances of the case, including at least the following—

(a) any potential vulnerability of the data subject that is relevant to the decision,

(b) all the rights and freedoms of the data subject, and

(c) the need to ensure compliance with the UK GDPR.

Safeguards: record of decision that exemption applies

1B (1) Where a controller makes a decision mentioned in paragraph 1A(4), the controller must keep a record of it and the reasons for it.

(2) Where an exemption from a relevant listed GDPR provision has been applied, the controller must also inform the data subject of the decision unless, in the particular circumstances of the case, the controller considers that doing so may be prejudicial to any of the matters mentioned in the relevant provision of Schedule 4.""

Member's explanatory statement
Schedule 4 contains exemptions from listed GDPR provisions where disclosure is prohibited or restricted by an enactment. This amendment extends the protections which now apply in the context of immigration to these areas.

LORD HOLMES OF RICHMOND
LORD CLEMENT-JONES

156A After Clause 107, insert the following new Clause—

"Data use: definition of unauthorised access to computer programs or data

In section 17 of the Computer Misuse Act 1990, at the end of subsection (5) insert—

"(c) they do not reasonably believe that the person entitled to control access of the kind in question to the program or data would have consented to that access if they had known about the access and the circumstances of it, including the reasons for seeking it, and

(d) they are not empowered by an enactment, by a rule of law, or by order of a court or tribunal to access of the kind in question to the program or data.""

LORD HOLMES OF RICHMOND
LORD CLEMENT-JONES

156B After Clause 107, insert the following new Clause—

"Data use: defences to charges under the Computer Misuse Act 1990

(1) The Computer Misuse Act 1990 is amended as follows.

(2) In section 1, after subsection (3) insert—

"(4) It is a defence to a charge under subsection (1) to prove that—

(a) the person's actions were necessary for the detection or prevention of crime, or

(b) the person's actions were justified as being in the public interest."

(3) In section 3, after subsection (6) insert—

"(7) It is a defence to a charge under subsection (1) in relation to an act carried out for the intention in subsection (2)(b) or (c) to prove that—

(a) the person's actions were necessary for the detection or prevention of crime, or

(b) the person's actions were justified as being in the public interest.""

Member's explanatory statement
This amendment updates the definition of "unauthorised access" in the Computer Misuse Act 1990 to provide clearer legal protections for legitimate cybersecurity activities.

Before Schedule 11

LORD CLEMENT-JONES

157 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

158 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

159 [*Withdrawn*]

VISCOUNT CAMROSE

159A Schedule 12, page 219, line 12, at end insert—

"(4) The means by which the subscriber may decline the storage or access may require the subscriber or user to make a payment."

Member's explanatory statement
This amendment would permit the use of cookie paywalls in statute.

LORD CLEMENT-JONES
This amendment is intended to replace Amendment 159

159B Schedule 12, page 219, line 12, at end insert—

"(4) A subscriber or user may not be required to make payment in order to withhold consent."

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

LORD CLEMENT-JONES
LORD LUCAS

160 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

161 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
BARONESS HARDING OF WINSCOMBE

162 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 14

LORD CLEMENT-JONES

163 Schedule 14, page 231, line 21, leave out "the Secretary of State" and insert "person who chairs the relevant Parliamentary Committee"

Member's explanatory statement
This amendment and others in the name of Lord Clement-Jones to Schedule 14 remove the involvement of the Secretary of State with the functions of the Commissioner and transfers the responsibility to appoint the Commissioner from government to parliament.

LORD CLEMENT-JONES

164 Schedule 14, page 231, leave out lines 25 to 29

LORD CLEMENT-JONES

165 Schedule 14, page 232, leave out lines 4 to 6 and insert "appointed by His Majesty by Letters Patent on the recommendation of the person who chairs the relevant Parliamentary committee, and must include at least two members appointed for the specific task of overseeing regulatory complaints and the rights and freedoms of data subjects."

LORD CLEMENT-JONES

166 Schedule 14, page 232, line 12, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary Committee"

LORD CLEMENT-JONES

167 Schedule 14, page 232, line 16, leave out sub-paragraph (6) and insert—

"(6) The non-executive members must exercise the powers conferred on the non-executive members by sub-paragraph (3) so as to secure that the number of non-executive members of the Commission is, so far as practicable, at all times greater than the number of executive members."

LORD CLEMENT-JONES

167A Schedule 14, page 232, line 22, at end insert—

"Membership: non-executive members expertise

3A In making recommendations of persons for appointment as non-executive members, the Secretary of State must ensure that the membership of the Commission includes non-executive members with expertise in—

(a) civil liberties and freedom of expression,
(b) public administration,
(c) international trade,
(d) business and economics,
(e) consumer rights, and
(f) children's rights."

Member's explanatory statement
To ensure that non-executive members of the Commission have a sufficient balance of expertise to inform the Commission outside of purely data protection issues.

LORD CLEMENT-JONES

168 Schedule 14, page 232, line 30, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

169 Schedule 14, page 233, line 5, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

170 Schedule 14, page 233, line 7, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

171 Schedule 14, page 233, line 9, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

172 Schedule 14, page 233, line 10, leave out "Secretary of State considers" and insert "they consider"

LORD CLEMENT-JONES

173 Schedule 14, page 233, line 15, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

174 Schedule 14, page 233, line 25, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

175 Schedule 14, page 233, line 34, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

176 Schedule 14, page 233, line 35, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

177 Schedule 14, page 234, line 10, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

178 Schedule 14, page 234, line 16, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

179 Schedule 14, page 234, line 19, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

180 Schedule 14, page 234, line 23, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

181 Schedule 14, page 234, line 24, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

182 Schedule 14, page 234, line 31, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

183 Schedule 14, page 234, line 33, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

184 Schedule 14, page 235, line 3, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

185 Schedule 14, page 235, line 9, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

186 Schedule 14, page 235, line 11, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

187 Schedule 14, page 235, line 15, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

188 Schedule 14, page 240, line 9, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

189 Schedule 14, page 240, line 12, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

190 Schedule 14, page 240, line 19, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

191 Schedule 14, page 240, line 20, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

LORD CLEMENT-JONES

192 Schedule 14, page 241, line 8, leave out "Secretary of State" and insert "person who chairs the relevant Parliamentary committee"

Schedule 15

LORD CLEMENT-JONES

193 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

194 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

195 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.

After Clause 122

LORD CLEMENT-JONES

196 After Clause 122, insert the following new Clause—

"Interaction between section 122 and Part 3, Chapter 2 of the Online Safety Act 2023

The Secretary of State must report to Parliament how the provisions of section 122 interact with the provisions on Category 1 services on the Online Safety Act 2023."

Member's explanatory statement
This is a probing amendment to debate how Category 1 services provisions of the OSB interact with these new DAUB provisions.

Clause 123

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

197 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

198 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.

LORD BETHELL
BARONESS KIDRON

198A Clause 123, page 153, leave out line 26

LORD CLEMENT-JONES

198B Clause 123, page 153, line 27, at end insert—

"(l) the definition of "independent researcher,""

Member's explanatory statement
This amendment would enable regulations to make provision about the definition of researchers.

LORD BETHELL
BARONESS KIDRON

198C Clause 123, page 153, line 27, at end insert—

"(2A) Regulations under this section may not prevent a person from seeking or accessing information solely because the person is located, or intends to carry out research, outside of the United Kingdom."

Member's explanatory statement
This amendment clarifies that, provided a researcher wants to carry out UK-relevant research into online safety matters, they will in principle be able to access information under the regime regardless of where they are located.

LORD BETHELL
BARONESS KIDRON

198D Clause 123, page 153, leave out lines 28 to 35 and insert—

"(3) Any requirements or duties placed on providers of regulated services by regulations made under subsection (1) may be enforceable requirement within the meaning of section 131."

Member's explanatory statement
This amendment provides for any requirements under the researcher access regulations to be enforceable in the same way as other requirements in the OSA, obviating the need to design a bespoke enforcement system.

LORD BETHELL

198E Clause 123, page 154, line 22, at end insert—

"(6A) Regulations under this section may not prevent a person from seeking or accessing information solely because the person is located, or intends to carry out research, outside of the United Kingdom."

LORD BETHELL
BARONESS KIDRON

198F Clause 123, page 154, line 42, at end insert—

"154B Non-enforceability of contractual restraints on research about online safety matters

(1) No contractual term is enforceable by a provider of a regulated service to the extent that its enforcement would prevent any person from carrying out research of the kind provided for by regulations made under section 154A.

(2) Subsection (1) applies regardless of whether the person against whom the contractual term is sought to be enforced has obtained any information under regulations made under section 154A.

(3) A contractual term is not unenforceable pursuant to subsection (1) by reason only of it requiring personal data to be processed in accordance with the data protection legislation."

Member's explanatory statement
This amendment amends the Online Safety Act, making any contractual provision – such as a provision in a platform's terms of service – unenforceable if enforcing it would prevent 'research into online safety matters' as defined in and provided for by the regulations which the Secretary of State will make.

After Clause 126

VISCOUNT CAMROSE
LORD MARKHAM

199 After Clause 126, insert the following new Clause—

"Data risks from systemic competitors and hostile actors

Data risks from systemic competitors and hostile actors

(1) The Secretary of State, in consultation with the Information Commissioner, must conduct a risk assessment on the data privacy risks associated with genomics and DNA companies that are headquartered in countries the government determines to be systemic competitors and hostile actors.

(2) Within 12 months of the day on which this Act is passed, the Secretary of State must present a report on the risk assessment in subsection (1) to Parliament and consult the intelligence and security agencies on the findings, taking into account the need to not make public information critical to national defence or ongoing operations.

(3) This risk assessment must evaluate—

(a) the degree of access granted to foreign entities, particularly those linked to systemic competitors and hostile actors, to genomic and DNA data collected within the United Kingdom,

(b) the potential for genomic and DNA data to be exfiltrated outside of the United Kingdom,

(c) the potential misuse of United Kingdom genomic and DNA data for dual-use or nefarious purposes,

(d) the potential for such data to be used in a manner that could compromise the privacy or security of United Kingdom citizens or undermine national security and strategic advantage.

(4) The risk assessment must consider and include, but is not limited to—

(a) an analysis of the data handling and storage practices of genomics companies that are based in countries designated as systemic competitors and hostile actors,

(b) an independent audit, including digital and physical forensic examination, at any company site that could have access to United Kingdom genomics data, and

(c) evidence of clear disclosure statements to consumers of products and services from genomics companies subject to data sharing requirements in the countries where they are headquartered.

(5) This risk assessment must be conducted as frequently as deemed necessary by the Secretary of State or the Information Commissioner to address evolving threats and ensure continued protection of the genomics sector from entities controlled, directly or indirectly, by countries designated as systemic competitors and hostile actors.

(6) The Secretary of State may issue directives or guidelines based on the findings of the risk assessment to ensure compliance by companies or personnel operating within the genomics sector in the United Kingdom, safeguarding against identified risks and vulnerabilities to data privacy."

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

After Clause 132

LORD LUCAS

200 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

201 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

202 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 STEVENSON OF BALMACARA

203 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
LORD CLEMENT-JONES

204 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

205 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

206 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
THE LORD BISHOP OF ST ALBANS

207 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.

LORD BASSAM OF BRIGHTON
LORD FREYBERG
THE EARL OF CLANCARTY

208 After Clause 132, insert the following new Clause—

"Private copy levy on digital access

(1) The Secretary of State may by regulations, make provision for the establishment of an annual private copy levy, to be levied when online digital content is accessed or stored.

(2) Before making regulations under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.

(3) The provisions made under subsection (1) must include but are not limited to—
  (a) establishing governance arrangements to calculate the rate and application of the levy,
  (b) permitting relevant copyright collecting societies to collect and distribute monies raised by the levy to rightsholder funds, and
  (c) distributing any surplus funds raised by the levy for the purposes of funding arts and cultural initiatives in the United Kingdom.

(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.

(5) The Secretary of State must commission an annual transparency report on the operation of the levy.

(6) The Secretary of State must lay the report made under subsection (5) before Parliament."

Member's explanatory statement
This amendment seeks to allow the Secretary of State to establish a private copy levy for digital content, with revenue distributed to rightsholder funds and cultural initiatives.

LORD CLEMENT-JONES

209 After Clause 132, insert the following new Clause—

"Digital identity theft

(1) A person commits an offence of digital identity theft if the person—
  (a) without permission obtains personal or sensitive information such as passwords, ID numbers, credit card numbers or national insurance numbers relating to an individual, or
  (b) uses personal or sensitive information under paragraph (a) to impersonate that individual and act in their name to carry out any digital transaction.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale."

Member's explanatory statement
This amendment establishes digital identity theft as an offence.

BARONESS OWEN OF ALDERLEY EDGE

210 After Clause 132, insert the following new Clause—

"Deletion of data in relation to sexual offences

In the Sexual Offences Act 2003, after section 66D insert—

"66E Sharing or threatening to share intimate photograph or film: deletion of data

If a person is convicted of an offence under section 66A (sending etc photograph or film of genitals) or 66B (sharing or threatening to share intimate photograph or film), the court may require the person to delete any copies of a photograph or film they have taken, including physical copies and those held on any device, cloud-based programme, or digital or messaging platform they control.""

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

211 After Clause 132, insert the following new Clause—

"Sovereign data assets

(1) The Secretary of State may by regulations define data sets held by public bodies and arm's length institutions and other data sets that are held in the public interest as sovereign data assets (defined in subsection (6)).

(2) In selecting data sets which may be designated as sovereign data assets, the Secretary of State must—

(a) have regard to—

(i) the security and privacy of United Kingdom data subjects;

(ii) the ongoing value of the data assets;

(iii) the rights of United Kingdom intellectual property holders;

(iv) ongoing adherence to the values, laws and international obligations of the United Kingdom;

(v) the requirement for public sector employees, researchers, companies and organisations headquartered in the United Kingdom to have preferential terms of access;

(vi) the need for data to be stored in the United Kingdom, preferably in data centres in the United Kingdom;

(vii) the need to design Application Programming Interfaces (APIs) as bridges between each sovereign data asset and the client software of the authorized licence holders;

(b) consult with—

(i) academics with expertise in the field;

(ii) the AI Safety Institute;

(iii) those with responsibility for large public data sets;

(iv) data subjects;

(v) the Information Commissioner.

(3) The Secretary of State must establish a transparent licensing system, fully reflecting the security and privacy of data held on United Kingdom subjects, for use in providing access to sovereign data assets.

(4) The Secretary of State must report annually to Parliament on the ongoing value of the sovereign data assets, in terms of—

(a) their value to future users of the data;

(b) the financial return expected when payment is made for the use of such data in such products and services as may be expected to be developed.

(5) The National Audit Office must review the licensing system established by the Secretary of State under subsection (3) and report annually to Parliament as to its effectiveness in securing the ongoing security of the sovereign data assets.

(6) In this section—

"sovereign data asset" means—

(a) data held by public bodies and arm's length institutions of government;

(b) data sets held by third parties that volunteer data to form, or contribute to, a public asset.

(7) Regulations under this section are to be made by statutory instrument.

(8) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament."

Member's explanatory statement

The UK has a number of unique publicly-held data assets, from NHS data to geospatial data and the BBC's multimedia data. This amendment would create a special status for data held in the public interest, and a licensing scheme for providing access to them, which upholds UK laws and values, and ensure a fair return of financial benefits to the UK.

LORD HOLMES OF RICHMOND

211A After Clause 132, insert the following new Clause—

"Data use: image, likeness and personality

(1) The Secretary of State must, within six months of the day on which this Act is passed, make provision by regulations to prohibit the development, deployment, marketing and sale of data related to an individual's image, likeness or personality for AI training or product development without that individual's express consent.

(2) The characteristics in subsection (1) include but are not limited to an individual's name, face, voice or any physical characteristic.

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

LORD HOLMES OF RICHMOND

211B After Clause 132, insert the following new Clause—

"Consultation: data centre power usage

On the day on which this Act is passed, the Secretary of State must launch a consultation on the implications of the provisions in this Act for the power usage and energy efficiency of data centres."

LORD HOLMES OF RICHMOND

211C After Clause 132, insert the following new Clause—

"Data use: supply chains

(1) On the day on which this Act is passed, the Secretary of State must launch a review of all data regulations and standards as they pertain to supply chains for financial, trade and legal documents and products.

(2) The review must assess how the data regulations and standards align with the principles of traceability, transparency and trust."

LORD HOLMES OF RICHMOND

211D After Clause 132, insert the following new Clause—

"Data use: review of large language models

(1) On the day on which this Act is passed, the Secretary of State must launch a review to consider the introduction of standards for the input and output of data of large language models which operate and generate revenue in the United Kingdom.

(2) The review must consider—

(a) the applicability of similar standards, such as those that already exist in industries such as pharmaceuticals, food and drinks;

(b) whether there is a need for legislative clarity under section 27 of the Copyright, Designs and Patents Act 1988 about whether the input and output of large language models constitute an "article", and

(c) whether a minimum standard should be a condition for market access."

LORD HOLMES OF RICHMOND

211E After Clause 132, insert the following new Clause—

"Consultation on public trust

(1) On the day on which this Act is passed, the Secretary of State must launch a national consultation on the use of individuals' data.

(2) The consultation should adopt a human-lead technology-empowered approach to reach a wide range of citizens in the United Kingdom.

(3) The consultation methodology should be dynamic and should deploy technologies such as AI to analyse the research findings.

(4) The consultation's construction and approach should be informed by international examples such as the "alignment assemblies" in Taiwan."

LORD LUCAS

211F After Clause 132, insert the following new Clause—

"Local Environmental Records Centres ("LERCs")

(1) Any planning application involving biodiversity net gain must include a data search report from the relevant Local Environmental Records Centre (LERC), and all data from biodiversity surveys conducted in connection with the application must be contributed free of charge to the LERC in record-centre-ready format.

(2) All government departments and governmental organisations, local and national, that collect biodiversity data for whatever reason, must contribute it free of charge to the relevant LERCs in record-centre-ready format, and must include relevant LERC data in formulating policy and operational plans."

Member's explanatory statement
This amendment ensures that all the biodiversity data collected by or in connection with government is collected in Local Environmental Records Centres, so records are as good as possible, and that that data is then used by or in connection with government so that data is put to the best possible use.

Clause 133

VISCOUNT CAMROSE
LORD MARKHAM

212 Clause 133, page 167, line 7, leave out subsection (4)

Member's explanatory statement
This is a probing amendment to assess why this power is necessary.

Clause 135

BARONESS JONES OF WHITCHURCH

213 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

214 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]

FOURTH MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

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