

Data (Use and Access) Bill [HL]

RUNNING LIST OF ALL AMENDMENTS ON REPORT

*Tabled up to and including
14 January 2025*

[Amendments marked ★ are new or have been altered]

After Clause 50

LORD CLEMENT-JONES

★ After Clause 50, insert the following new Clause –

“Digital identity documents and digital identity theft review

- (1) The Secretary of State must review the need for –
 - (a) an offence regarding the false use of digital identity documents created or verified by digital verification services within the meaning of this Act, and
 - (b) a digital identity theft offence.
- (2) Under subsection (1)(a) the review must consider whether an offence can be created within the Identity Documents Act 2010.
- (3) Under subsection (1)(b) the review must consider as part of its determination into the need for a digital identity theft offence, the following definition –

“digital identity theft offence” means an offence where a person, without permission, obtains personal or sensitive information such as passwords, ID numbers, credit card numbers or national insurance numbers relating to an individual, or uses personal or sensitive information, to impersonate that individual and act in their name to carry out a digital transaction.”

Member's explanatory statement

This amendment requires the Secretary of State to review whether an offence relating to the false use of digital identity documents is needed, and whether this offence could be created via the Identity Documents Act 2010; further, it requires a review into the need for a digital identity theft offence.

Clause 56

LORD VALLANCE OF BALHAM

- ★ Clause 56, page 52, line 13, leave out “undertaker’s” and insert “contractor’s”

Member's explanatory statement

New section 106B(6) of the New Roads and Street Works Act 1991 (defence where certain people have taken reasonable care) refers to “the undertaker’s employees” twice. This amendment corrects that by replacing one of those references with a reference to “the contractor’s employees”.

Clause 58

LORD VALLANCE OF BALHAM

- ★ Clause 58, page 62, line 34, leave out “undertaker’s” and insert “contractor’s”

Member's explanatory statement

New Article 45B(6) of the Street Works (Northern Ireland) Order 1995 (defence where certain people have taken reasonable care) refers to “the undertaker’s employees” twice. This amendment corrects that by replacing one of those references with a reference to “the contractor’s employees”.

Clause 67

VISCOUNT COLVILLE OF CULROSS

Clause 67, page 75, line 10, after “scientific” insert “and that is conducted in the public interest”

Member's explanatory statement

This amendment ensures that to qualify for the scientific research exception for data reuse, that research must be in the public interest. This requirement already exists for medical research, but this amendment would apply it to all scientific research wishing to take advantage of the exception.

Clause 70

LORD CLEMENT-JONES

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

Member's explanatory statement

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

LORD VALLANCE OF BALHAM

- ★ Clause 70, page 78, line 23, after “children” insert “merit specific protection with regard to their personal data because they”

Member's explanatory statement

This amendment adds an express reference to children meriting specific protection with regard to their personal data in new paragraph 8(b) of Article 6 of the UK GDPR (lawful processing: recognised legitimate interests). See also the amendment in my name to Clause 90, page 113, line 20.

Clause 71

LORD CLEMENT-JONES

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

Member's explanatory statement

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

Clause 80

LORD CLEMENT-JONES

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

Member's explanatory statement

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

After Clause 80

LORD CLEMENT-JONES

After Clause 80, insert the following new Clause –

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

- (1) No later than the commencement of use of a relevant algorithmic or automated decision-making system, a public authority must –
 - (a) give notice on a public register that the decision rendered will be undertaken in whole, or in part, by an algorithmic or automated decision-making system,
 - (b) make arrangements for the provision of a meaningful and personalised explanation to affected individuals of how and why a decision affecting them was made, including meaningful information about the decision-making processes, and an assessment of the potential consequences of such processing for the data subject, as prescribed in regulations to be made by the Secretary of State,
 - (c) develop processes to –

- (i) monitor the outcomes of the algorithmic or automated decision-making system to safeguard against unintentional outcomes and to verify compliance with this Act and other relevant legislation, and
 - (ii) validate that the data collected for, and used by, the system is relevant, accurate, up-to-date, and in accordance with the Data Protection Act 2018, and
 - (d) make arrangements to conduct regular audits and evaluations of algorithmic and automated decision-making systems, including the potential risks of those systems and steps to mitigate such risks, as prescribed in regulations to be made by the Secretary of State.
- (2) “Algorithmic decision system” or “automated decision system” mean any technology that either assists or replaces the judgement of human decision-makers.
- (3) Regulations under this section are subject to the affirmative resolution procedure.”

LORD CLEMENT-JONES

After Clause 80, insert the following new Clause –

“Definition of meaningful human involvement in automated decision-making

The Secretary of State must, in conjunction with the Information Commissioner’s Office and within six months of the day on which this Act is passed, produce a definition of what constitutes meaningful human involvement in automated decision-making or clearly set out their reasoning as to why a definition is not required.”

Member’s explanatory statement

This amendment requires the Secretary of State to produce a definition of meaningful human involvement in automated decision-making, in collaboration with the Information Commissioner’s Office, or clearly set out its reasoning as to why this is not required, within six months of the Act’s passing.

After Clause 84

LORD CLEMENT-JONES

After Clause 84, insert the following new Clause –

“Impact of this Act and other developments at national and international level on EU data adequacy decision

Before the European Union’s next reassessment of data adequacy in June 2025, the Secretary of State must carry out an assessment of the likely impact on the European Union data adequacy decisions relating to the United Kingdom of the following –

- (a) this Act;

- (b) other changes to the United Kingdom’s domestic frameworks which are relevant to the matters listed in Article 45(2) of the UK GDPR (transfers on the basis of an adequacy decision);
- (c) relevant changes to the United Kingdom’s international commitments or other obligations arising from legally binding conventions or instruments, as well as from its participation in multilateral or regional systems, in particular in relation to the protection of personal data.”

Member’s explanatory statement

This amendment requires the Secretary of State to carry out an assessment of the impact of this Act and other changes to the UK’s domestic and international frameworks relating to data adequacy.

Clause 90

LORD VALLANCE OF BALHAM

- ★ Clause 90, page 113, line 20, after “children” insert “merit specific protection with regard to their personal data because they”

Member’s explanatory statement

This amendment adds an express reference to children meriting specific protection with regard to their personal data in new section 120B(e) of the Data Protection Act 2018 (Information Commissioner’s duties in relation to functions under the data protection legislation). See also the amendment in my name to Clause 70, page 78, line 23.

After Clause 112

LORD VALLANCE OF BALHAM

- ★ After Clause 112, insert the following new Clause—

“Use of electronic mail for direct marketing by 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 charity may send or instigate the sending of electronic mail for the purposes of direct marketing where—
 - (a) the sole purpose of the direct marketing is to further one or more of the charity’s charitable purposes;
 - (b) the charity obtained the contact details of the recipient of the electronic mail in the course of the recipient—
 - (i) expressing an interest in one or more of the purposes that were the charity’s charitable purposes at that time; or
 - (ii) offering or providing support to further one or more of those purposes; 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 direct marketing by the charity, 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.”
- (4) After paragraph (4) insert –
- “(5) In this regulation, “charity” means –
- (a) a charity as defined in section 1(1) of the Charities Act 2011,
 - (b) a charity as defined in section 1(1) of the Charities Act (Northern Ireland) 2008 (c. 12 (N.I.)), including an institution treated as such a charity for the purposes of that Act by virtue of the Charities Act 2008 (Transitional Provision) Order (Northern Ireland) 2013 (S.R. (N.I.) 2013 No. 211), and
 - (c) a body entered in the Scottish Charity Register, other than a body which no longer meets the charity test in section 7 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10),
- and, in relation to such a charity, institution or body, “charitable purpose” has the meaning given in the relevant Act.””

Member's explanatory statement

Regulation 22 of the PEC Regulations prohibits the transmission, by means of electronic mail, of unsolicited communications to individual subscribers. This amendment creates an exception from the prohibition for direct marketing carried out by a charity for charitable purposes.

After Clause 114

LORD CLEMENT-JONES

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 seeks to enable charities to communicate to donors in the same way that businesses have been able to communicate to customers since 2003. The clause intends to help facilitate greater fundraising and support the work charities do for society.

After Clause 132

LORD BASSAM OF BRIGHTON
LORD FREYBERG
THE EARL OF CLANCARTY

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 resolution 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.

Clause 136

LORD VALLANCE OF BALHAM

★ Clause 136, page 169, line 20, at end insert –

“(za) section 66 (meaning of “the 2018 Act” and “the UK GDPR”);”

Member's explanatory statement

This amendment provides that the clause defining “the 2018 Act” and “the UK GDPR” for the purposes of Chapter 1 of Part 5 of the Bill comes into force on Royal Assent.

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