

Data (Use and Access) Bill [HL]

RUNNING LIST OF ALL AMENDMENTS ON REPORT

*Tabled up to and including
15 January 2025*

The amendments are listed in accordance with the following Instruction –

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]

Clause 2

BARONESS KIDRON
LORD RUSSELL OF LIVERPOOL

- ★ Clause 2, page 4, line 1, after “to” insert “the customer's data rights or”

Member's explanatory statement

This amendment adds enacting data rights to the list of actions that the Secretary of State or the Treasury can enable an “authorised person” to take on behalf of customers. This would make it possible for customers to assign their data rights to a third party to activate on their behalf.

Clause 3

BARONESS KIDRON

★ Clause 3, page 4, line 24, at end insert –

(2A) The regulations must include data communities in the list of specified people.”

Member's explanatory statement*This amendment would require the Secretary of State or Treasury to include data communities in the list of specific people who can activate on a customer's behalf.*

BARONESS KIDRON

★ Clause 3, page 6, line 7, at end insert –

(12) In this Act, a “data community” means an entity established to activate data subjects' data rights under Chapters III and VIII of the UK GDPR on their behalf.”

Member's explanatory statement*This amendment provides a definition of “data community”. It is part of a set of amendments that allow the assigning of personal data.***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
BARONESS KIDRON

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 68

BARONESS KIDRON

★ Clause 68, page 76, line 16, at end insert –

“(e) the data subject is not a child.”

Member's explanatory statement

This amendment ensures the bill maintains the high level of legal protection for children's data even when the protections offered to adults are lowered.

Clause 70

BARONESS KIDRON
LORD RUSSELL OF LIVERPOOL

- ★ Clause 70, page 77, line 36, after “interest” insert “and the data subject is not a child.”

Member's explanatory statement

This amendment excludes children from “recognised legitimate interests” and ensures the Bill maintains the high level of legal protection for children's data even when the protections offered to adults are lowered.

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.

Schedule 4

LORD HOLMES OF RICHMOND

- ★ Schedule 4, page 183, line 21, at end insert—
- “(c) the requester has notified the Commissioner of the nature and purpose of the request.”

Member's explanatory statement

This amendment seeks to ensure that the person who has made the request has notified the Commissioner of the nature and purpose of the request.

Clause 71

BARONESS KIDRON
LORD RUSSELL OF LIVERPOOL

★ Clause 71, page 81, line 14, at end at end insert –

“4A. Where the controller collected the personal data based on Article 6(1)(a) (data subject’s consent), processing for a new purpose is not compatible with the original purpose if –

- (a) the data subject is a child,
- (b) the processing is based on consent given or authorised by the holder of parental responsibility over the child,
- (c) the data subject is an adult to whom either (a) or (b) applied at the time of the consent collection, or
- (d) the data subject is a deceased child.”

Member's explanatory statement

This amendment seeks to exclude children from the new provisions on purpose limitation for further processing under Article 8A.

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.

After Clause 72

BARONESS KIDRON

★ After Clause 72, insert the following new Clause –

“Protection of children: overarching duty on controllers and processors

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

- (2) Nothing in this Act is to be construed as reducing, minimising or undermining existing standards and protections of children's data under the 2018 Act or UK GDPR.
- (3) In this section, a “child” is a person under the age of 18.”

Member's explanatory statement

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

After Clause 79

BARONESS KIDRON

- ★ After Clause 79, insert the following new Clause—

“Right to assign data rights to a data community

- (1) Data subjects have the right to mandate a data community to exercise their data rights, as set out in Chapters 3 and 8 of the UK GDPR, on their behalf.
- (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, and with respect to which data controllers.
- (3) The data subject has the right to amend or withdraw the assignment partially or in full at any time.
- (4) In this Act, a “data community” means an entity established to facilitate the collective activation of data subjects’ data rights in Chapters 3 and 8 of the UK GDPR, and members of a data community assign specific data rights to a nominated entity to exercise those rights on their behalf.”

Member's explanatory statement

This amendment creates a mechanism for data subjects to assign their data rights to be managed and asserted collectively. It seeks to address the asymmetry between the ability of data subjects and data controllers to understand and direct how data is used within data sets. It is one of a series of amendments that would establish the ability to assign data rights to a third party.

Clause 80

BARONESS KIDRON

- ★ Clause 80, page 95, line 6, at end insert “or,
- (b) the data subject is a child or may be a child unless the provider is satisfied that the decision is in, and compatible with, the best interests of a child, taking into account their rights and development stage.”

Member's explanatory statement

This amendment seeks to ensure that significant decisions that impact children cannot be made using automated processes unless they are in a child's best interest. This upholds data law introduced in 2018.

LORD CLEMENT-JONES
BARONESS KIDRON

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.

BARONESS KIDRON

★ Clause 80, page 96, line 33, at end insert –

“(4) Consent in accordance with subsection (2) cannot be given by persons under the age of 18.”

Member's explanatory statement

This amendment prevents children giving consent for their special category data to be used in automated decision-making.

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
BARONESS KIDRON

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 HOLMES OF RICHMOND

- ★ Clause 90, page 113, line 15, at end insert “in accordance only with the Commissioner’s duties under section 108 of the Deregulation Act 2015 (exercise of regulatory functions: economic growth).”

Member’s explanatory statement

This amendment ensures that the Commissioner’s duty to have regard to the desirability of promoting innovation is referable only to the duty imposed under section 108 of the Deregulation Act 2015. This amendment seeks to ensure that the Commissioner’s status as an independent supervisory authority for data protection is preserved given that such status is an essential component of any EU adequacy decision.

BARONESS KIDRON
LORD RUSSELL OF LIVERPOOL

- ★ Clause 90, page 113, leave out lines 20 to 22 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 must take into account when exercising their regulatory functions.

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 92

BARONESS KIDRON
LORD RUSSELL OF LIVERPOOL

★ 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 than adults with regard to their personal data as established in the 2018 Act,
 - (iii) the potential harm to future life chances, income, health and wellbeing, and
 - (iv) the need for products and services likely to impact on children to be safe and equitable by design and default.
 - (b) 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.

BARONESS KIDRON

★ 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 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

★ 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 RUSSELL OF LIVERPOOL

★ 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) the principle that children have a right to know what data about them is being generated, collected, processed, stored and shared;
 - (f) the principle 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 subsection (4), 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 assist schools in procurement.

Clause 101

BARONESS KIDRON

★ Clause 101, page 129, line 38, 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.

After Clause 107

LORD HOLMES OF RICHMOND

★ 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.

LORD HOLMES OF RICHMOND

★ 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.””

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.

Clause 123

BARONESS KIDRON
LORD RUSSELL OF LIVERPOOL

- ★ Clause 123, page 153, line 14, 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

- ★ Clause 123, page 153, line 35, at end insert –
- “(l) 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 and sexuality;”

Member's explanatory statement

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

After Clause 132

LORD 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.

BARONESS KIDRON

★ 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

★ 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

★ 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 TARASSENKO
LORD STEVENSON OF BALMACARA
LORD CLEMENT-JONES

★ 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

★ 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

★ After Clause 132, insert the following new Clause –

“Review: data centre availability

On the day on which this Act is passed, the Secretary of State must launch a review of the impact of the provisions in this Act on the availability of data centres which must consider whether there is a need to accelerate the buildout of data centres.”

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.

Data (Use and Access) Bill [HL]

RUNNING LIST OF ALL AMENDMENTS ON REPORT

Tabled up to and including

15 January 2025

15 January 2025

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS