

Data (Use and Access) Bill [HL]

COMMONS AMENDMENTS

[The page and line references are to Bill 179, the Bill as first printed for the Commons]

Clause 4

COMMONS AMENDMENT 1

- 1 Clause 4, page 6, line 25, after “recipient” insert “in relation to business data”

COMMONS AMENDMENT 2

- 2 Clause 4, page 6, line 26, after “authority” insert “to do something with the business data”

COMMONS AMENDMENT 3

- 3 Clause 4, page 6, line 30, at end insert —
- “(aa) make provision requiring a person who is a third party recipient in relation to business data (whether by virtue of those regulations or other data regulations), and who is appointed by a public authority to do something with the business data, to publish or provide business data as described in paragraph (a)(i) or (ii),”

COMMONS AMENDMENT 4

- 4 Clause 4, page 6, line 31, leave out from “or” to “, make” in line 32 and insert “the appointed person referred to in paragraph (a) or (aa)”

COMMONS AMENDMENT 5

- 5 Clause 4, page 6, line 37, after “authority” insert “or appointed person”

COMMONS AMENDMENT 6

- 6 Clause 4, page 6, line 39, leave out “(a)(ii)” and insert “(a) or (aa), other than a customer described in paragraph (a)(i)”

Clause 8

COMMONS AMENDMENT 7

- 7 Clause 8, page 12, line 5, leave out “and sections 9 and 10”

COMMONS AMENDMENT 8

- 8 Clause 8, page 12, line 6, at end insert “(and see sections 9 and 10)”

COMMONS AMENDMENT 9

- 9 Clause 8, page 12, line 18, leave out “imposed by a decision-maker” and insert “(referred to in sections 3(2) and 5(3))”

COMMONS AMENDMENT 10

- 10 Clause 8, page 13, line 16, after second “specified” insert “documents or”

COMMONS AMENDMENT 11

- 11 Clause 8, page 13, line 18, leave out “information about” and insert “documents or information relating to”

COMMONS AMENDMENT 12

- 12 Clause 8, page 13, line 18, leave out “, either generally or in relation to a particular case”

COMMONS AMENDMENT 13

- 13 Clause 8, page 13, line 20, leave out “information about” and insert “documents or information relating to”

Clause 10

COMMONS AMENDMENT 14

- 14 Clause 10, page 16, line 8, at end insert —
“(f) about what must or may be done with amounts paid as penalties.”

Clause 11**COMMONS AMENDMENT 15**

- 15** Clause 11, page 16, line 13, leave out “for the purpose of meeting expenses” and insert “in connection with activities”

COMMONS AMENDMENT 16

- 16** Clause 11, page 16, line 24, leave out from beginning to “performing” in line 25 and insert “Those activities are”

COMMONS AMENDMENT 17

- 17** Clause 11, page 16, line 34, leave out “in respect of which the fee is charged” and insert “in connection with which the fee is charged (and for the total amount of fees payable in connection with things to exceed the total cost)”

COMMONS AMENDMENT 18

- 18** Clause 11, page 17, line 13, at end insert –
- “(9) The Secretary of State or the Treasury may by regulations make provision about whether a person listed in subsection (2), or a person acting on their behalf, who could require payment in connection with an activity described in subsection (3) otherwise than in reliance on regulations under subsection (1) may do so.
 - (10) Where duties or powers are imposed or conferred –
 - (a) on a person in their capacity as a third party recipient by or under regulations made under this Part, other than regulations made in reliance on section 4(4)(a), (aa) or (b), or
 - (b) on a person in their capacity as a person described in section 4(4)(c) by or under regulations made under this Part,nothing in this section, or in regulations under subsection (1) or (9), prevents the person, or a person acting on their behalf, from requiring payment in connection with the performance or exercise of those duties or powers, or restricts their ability to do so, where the person could do so otherwise than in reliance on regulations under subsection (1).
 - (11) Examples of requiring payment otherwise than in reliance on regulations under subsection (1) include doing so in reliance on other legislation or a contract or other arrangement (whenever entered into).”

Clause 14**COMMONS AMENDMENT 19**

- 19** Clause 14, page 19, line 3, at end insert –
- “(ba) requiring section 2(4) actors described in the regulations to use a prescribed interface, comply with prescribed interface standards or participate in

prescribed interface arrangements when taking, facilitating or doing other things in connection with relevant financial services action;”

COMMONS AMENDMENT 20

- 20 Clause 14, page 19, line 14, leave out “or (b)” and insert “, (b) or (ba)”

COMMONS AMENDMENT 21

- 21 Clause 14, page 20, line 11, at end insert –
- ““relevant financial services action” means action described in section 2(4) taken in relation to services or digital content provided or supplied by a financial services provider;
- “section 2(4) actor” means –
- (a) a person who, in reliance on regulations under subsection (4) of section 2, takes action described in that subsection;
 - (b) a data holder or other person who facilitates or does other things in connection with such action.”

Clause 15

COMMONS AMENDMENT 22

- 22 Clause 15, page 21, line 13, leave out third “to”

COMMONS AMENDMENT 23

- 23 Clause 15, page 21, line 14, after “subsection,” insert “or to a person acting on behalf of such a body or person,”

COMMONS AMENDMENT 24

- 24 Clause 15, page 21, line 14, leave out “for the purpose of meeting expenses” and insert “in connection with activities”

COMMONS AMENDMENT 25

- 25 Clause 15, page 21, line 19, leave out subsection (8) and insert –
- “(8) Those activities are performing or exercising –
- (a) duties or powers imposed or conferred on the interface body or person listed in subsection (7) by FCA interface rules, and
 - (b) other duties or powers imposed or conferred on that body or person by or under regulations made under this Part.”

COMMONS AMENDMENT 26

- 26 Clause 15, page 21, line 27, leave out “in respect of which the fee is charged” and insert “in connection with which the fee is charged (and for the total amount of fees payable in connection with things to exceed the total cost)”

COMMONS AMENDMENT 27

- 27 Clause 15, page 21, line 38, at end insert —
“(da) may require or enable rules to make provision about what must or may be done with amounts paid as fees;”

COMMONS AMENDMENT 28

- 28 Clause 15, page 21, line 41, at end insert —
“(9A) Regulations under section 14 may enable FCA interface rules to make provision about whether an interface body or a person listed in subsection (7), or a person acting on behalf of such a body or person, who could require payment in connection with an activity described in subsection (8) otherwise than in reliance on FCA interface rules may do so.
(9B) Examples of requiring payment otherwise than in reliance on FCA interface rules include doing so in reliance on other legislation or a contract or other arrangement (whenever entered into).”

Clause 21

COMMONS AMENDMENT 29

- 29 Clause 21, page 26, line 6, after “sections” insert “11(9),”

Clause 23

COMMONS AMENDMENT 30

- 30 Clause 23, page 27, line 15, at end insert —
“(3A) For the purposes of determining whether subordinate legislation contains provision described in clauses 2(1) to (4) or 4(1) to (4), references in those sections to something specified are to be read as including something specified by or under any subordinate legislation.”

Clause 25

COMMONS AMENDMENT 31

- 31 Clause 25, page 28, line 33, at end insert —
“(4) In this Part, references to regulations made under subsection (3) of section 4 or any of sections 5 to 21 (and references which include such regulations) include

regulations made under section 4(4)(b) or (c) which make provision that could be made under the other subsection or section.”

Clause 28

COMMONS AMENDMENT 32

- 32 Clause 28, page 30, line 32, leave out subsections (3) and (4)

Clause 45

COMMONS AMENDMENT 33

- 33 Clause 45, page 43, line 12, leave out subsection (6)

Clause 56

COMMONS AMENDMENT 34

- 34 Clause 56, page 54, line 1, leave out lines 1 to 3

COMMONS AMENDMENT 35

- 35 Clause 56, page 58, leave out lines 10 and 11 and insert “obtain the consent of the Welsh Ministers in relation to any provision which would be within the legislative competence of Senedd Cymru if contained in an Act of the Senedd (ignoring any requirement for the consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006).”

Clause 57

COMMONS AMENDMENT 36

- 36 Clause 57, page 60, line 18, leave out “consult the Welsh Ministers” and insert “obtain the consent of the Welsh Ministers in relation to any provision that relates to apparatus in streets in Wales”

COMMONS AMENDMENT 37

- 37 Clause 57, page 60, line 41, at end insert –
“(4A) Before making regulations under this section the Secretary of State must obtain the consent of the Welsh Ministers in relation to any provision that relates to apparatus in streets in Wales.”

COMMONS AMENDMENT 38

- 38 Clause 57, page 61, leave out line 3

COMMONS AMENDMENT 39

- 39 Clause 57, page 61, line 31, leave out subsections (8) and (9)

Clause 58

COMMONS AMENDMENT 40

- 40 Clause 58, page 68, leave out lines 2 to 4 and insert –
“(A1) Before making regulations under this Order the Secretary of State must obtain the consent of the Department for Infrastructure.”

Clause 59

COMMONS AMENDMENT 41

- 41 Clause 59, page 70, leave out lines 12 and 13

COMMONS AMENDMENT 42

- 42 Clause 59, page 70, leave out line 39

Clause 67

COMMONS AMENDMENT 43

- 43 Clause 67, page 75, line 26, leave out “and that is conducted in the public interest”

Clause 95

COMMONS AMENDMENT 44

- 44 Clause 95, page 120, line 31, leave out subsection (1)

After Clause 134

COMMONS AMENDMENT 45

- 45 After Clause 134, insert the following Clause –

“Economic impact assessment

- (1) The Secretary of State must, before the end of the period of 12 months beginning with the day on which this Act is passed –
 - (a) prepare and publish an assessment of the economic impact in the United Kingdom of each of the four policy options described in section B.4 of the Copyright and AI Consultation Paper, read with relevant parts of section C of that Paper (policy options about copyright law and the training of artificial intelligence models using copyright works), and
 - (b) lay a document containing the assessment before Parliament.

- (2) The document may include an assessment of the economic impact in the United Kingdom of policy options which are alternatives to the options described in subsection (1)(a).
- (3) An assessment included in the document must, among other things, include assessment of the economic impact of each option on—
 - (a) copyright owners, and
 - (b) persons who develop or use AI systems,
 including the impact on copyright owners, developers and users who are individuals, micro businesses, small businesses or medium-sized businesses.
- (4) In this section—
 - “AI system” means a machine-based system that, from the input it receives, can infer how to—
 - (a) generate predictions, digital content, recommendations, decisions or other similar outputs, or
 - (b) influence a physical or virtual environment,
 with a view to achieving an explicit or implicit objective;
 - “the Copyright and AI Consultation Paper” means the command paper “Copyright and AI: Consultation”, numbered CP1205, published on 17 December 2024;
 - “copyright owner” has the same meaning as in Part 1 of the Copyright, Designs and Patents Act 1988;
 - “develop” an AI system means carry on an activity involved in producing the system, such as (for example) designing, programming, training or testing the system (and related terms are to be interpreted accordingly);
 - “digital content” means data which is produced and supplied in digital form;
 - “medium-sized business” means a business with at least 50 but fewer than 250 staff;
 - “micro business” means a business with fewer than 10 staff;
 - “small business” means a business with at least 10 but fewer than 50 staff;
 - “use” an AI system means instruct an AI system to generate outputs or to influence an environment (and related terms are to be interpreted accordingly).”

COMMONS AMENDMENT 46

46 After Clause 134, insert the following Clause—

“Report on the use of copyright works in the development of AI systems

- (1) The Secretary of State must, before the end of the period of 12 months beginning with the day on which this Act is passed—
 - (a) prepare and publish a report on the use of copyright works in the development of AI systems, and
 - (b) lay the report before Parliament.
- (2) The report must consider—
 - (a) the four policy options described in section B.4 of the Copyright and AI Consultation Paper, read with relevant parts of section C of that Paper

- (policy options about copyright law and the training of artificial intelligence models using copyright works), and
- (b) such alternative options as the Secretary of State considers appropriate.
- (3) The report must consider, and make proposals in relation to, each of the following –
- (a) technical measures and standards (for example, measures and standards concerned with metadata) that may be used to control –
 - (i) the use of copyright works to develop AI systems, and
 - (ii) the accessing of copyright works for that purpose (for example, by web crawlers);
 - (b) the effect of copyright on access to, and use of, data by developers of AI systems (for example, on text and data mining), including the effect on developers who are individuals, micro businesses, small businesses or medium-sized businesses;
 - (c) the disclosure of information by developers of AI systems about –
 - (i) their use of copyright works to develop AI systems, and
 - (ii) how they access copyright works for that purpose (for example, by means of web crawlers);
 - (d) the granting of licences to developers of AI systems to do acts restricted by copyright, including the granting of licences by and to individuals, micro businesses, small businesses and medium-sized businesses.
- (4) In preparing the report, the Secretary of State must consider the likely effect of proposals, in the United Kingdom, on –
- (a) copyright owners, and
 - (b) persons who develop or use AI systems,
- including the likely effect on copyright owners, developers and users who are individuals, micro businesses, small businesses or medium-sized businesses.
- (5) In preparing the report, the Secretary of State must have regard to, among other things, the Consultation Paper responses.
- (6) The Secretary of State may comply with this section by preparing and publishing two or more reports which, taken together, satisfy the requirements in this section.
- (7) In this section –
- “Consultation Paper responses” means responses to the Copyright and AI Consultation Paper received by the Secretary of State on or before 25 February 2025;
 - “copyright” means the property right which subsists in accordance with Part 1 of the Copyright, Designs and Patents Act 1988;
 - “copyright work” has the same meaning as in Part 1 of the Copyright, Designs and Patents Act 1988;
 - “web crawler” means a computer program that obtains data from websites in accordance with instructions and that can autonomously determine which websites to visit.
- (8) Terms used in this section and in section (*Economic impact assessment*) have the same meaning in this section as they have in that section.”

Clause 135

COMMONS AMENDMENT 47

47 Page 170, line 2, leave out Clause 135

Clause 136

COMMONS AMENDMENT 48

48 Page 170, line 23, leave out Clause 136

Clause 137

COMMONS AMENDMENT 49

49 Page 171, line 15, leave out Clause 137

Clause 138

COMMONS AMENDMENT 50

50 Page 171, line 37, leave out Clause 138

Clause 139

COMMONS AMENDMENT 51

51 Page 173, line 1, leave out Clause 139

Clause 140

COMMONS AMENDMENT 52

52 Page 173, line 13, leave out Clause 140

Clause 141

COMMONS AMENDMENT 53

53 Clause 141, page 173, line 27, leave out “or soliciting the creation of”

COMMONS AMENDMENT 54

54 Clause 141, page 173, line 35, leave out from beginning to end of line 8 on page 174

COMMONS AMENDMENT 55

55 Clause 141, page 174, line 26, at end insert –

“(7A) It is a defence for a person charged with an offence under this section to prove that the person had a reasonable excuse for creating the purported intimate image.”

COMMONS AMENDMENT 56

56 Clause 141, page 174, line 29, at end insert –

“66EA Requesting the creation of purported intimate image of adult

- (1) A person (A) commits an offence if –
 - (a) A intentionally requests the creation of a purported intimate image of another person (B) (either in general or specific terms),
 - (b) B does not consent to A requesting the creation of the purported intimate image, and
 - (c) A does not reasonably believe that B consents.
- (2) A person (A) commits an offence if –
 - (a) A intentionally requests that, if a purported intimate image of another person (B) is created, it includes or excludes something in particular (whether relating to B’s appearance, the intimate state in which B is shown or anything else),
 - (b) B does not consent to A requesting the inclusion or exclusion of that thing, and
 - (c) A does not reasonably believe that B consents.
- (3) References in this section to making a request (however expressed) include doing an act which could reasonably be taken to be a request (such as, for example, indicating agreement in response to an offer or complying with conditions of an offer).
- (4) References in this section to making a request (however expressed) are references to –
 - (a) making a request directed to a particular person or persons, or
 - (b) making a request so that it is available to one or more persons (or people generally), without directing it to a particular person or persons.
- (5) References in this section to consent to a person requesting something are –
 - (a) in a case described in subsection (4)(a), references to consent to a request being made that is directed to the particular person or persons, and
 - (b) in a case described in subsection (4)(b), references to consent to a request being made so that it is available to the person or persons (or people generally), as appropriate.
- (6) An offence under this section is committed –
 - (a) regardless of whether the purported intimate image is created,
 - (b) regardless of whether the purported intimate image, or the particular thing to be included in or excluded from such an image, is also requested by another person, and

- (c) regardless of where in the world the person or persons mentioned in subsection (4)(a) and (b) is or are located.
- (7) It is a defence for a person charged with an offence under this section to prove that the person had a reasonable excuse for making the request.
- (8) A person who commits an offence under this section is liable on summary conviction to imprisonment for a term not exceeding the maximum term for summary offences or a fine (or both).
- (9) In this section, references to a purported intimate image, to creating such an image and to a person shown in an intimate state have the same meaning as in section 66E.”

COMMONS AMENDMENT 57

- 57 Clause 141, page 174, line 30, leave out “soliciting” and insert “requesting”

COMMONS AMENDMENT 58

- 58 Clause 141, page 174, line 32, leave out “section 66E” and insert “sections 66E and 66EA”

COMMONS AMENDMENT 59

- 59 Clause 141, page 174, line 33, leave out “the creation of a purported intimate image” and insert “an act”

COMMONS AMENDMENT 60

- 60 Clause 141, page 174, line 34, leave out “of creation”

COMMONS AMENDMENT 61

- 61 Clause 141, page 174, line 35, at end insert “(and see also section 66EA(5))”

COMMONS AMENDMENT 62

- 62 Clause 141, page 175, line 10, at end insert –

- “(8) The “maximum term for summary offences” means –
- (a) if the offence is committed before the time when section 281(5) of the Criminal Justice Act 2003 comes into force, six months;
 - (b) if the offence is committed after that time, 51 weeks.”

COMMONS AMENDMENT 63

63 Clause 141, page 175, line 10, at end insert –

“66G Creating, or requesting the creation of, purported intimate image of adult: time limit for prosecution

- (1) Notwithstanding section 127(1) of the Magistrates’ Courts Act 1980, a magistrates’ court may try an information or written charge relating to an offence under section 66E or 66EA if the information is laid or the charge is issued –
 - (a) before the end of the period of 3 years beginning with the day on which the offence was committed, and
 - (b) before the end of the period of 6 months beginning with the day on which evidence which the prosecutor thinks is sufficient to justify a prosecution comes to the prosecutor’s knowledge.
- (2) A certificate signed by or on behalf of a prosecutor stating the date on which evidence described in subsection (1)(b) came to the prosecutor’s knowledge is conclusive evidence of that fact.”

COMMONS AMENDMENT 64

64 Clause 141, page 175, line 12, after “66E” insert “, 66EA”

COMMONS AMENDMENT 65

65 Clause 141, page 175, line 12, at end insert –

“(3A) In the Armed Forces Act 2006, after section 177D insert –

“177DA Purported intimate images to be treated as used for purpose of certain offences

- (1) This section applies where a person commits an offence under section 42 as respects which the corresponding offence under the law of England and Wales is an offence under section 66E of the Sexual Offences Act 2003 (creating purported intimate image of adult).
- (2) The purported intimate image to which the offence relates, and anything containing it, is to be regarded for the purposes of section 177C(3) (and section 94A(3)(b)(ii)) as used for the purposes of committing the offence (including where it is committed by aiding, abetting, counselling or procuring).”

COMMONS AMENDMENT 66

66 Clause 141, page 175, line 12, at end insert –

“(3B) In Part 2 of Schedule 3 to the Serious Crime Act 2007 (offences to be disregarded in reckoning whether an act is capable of encouraging or assisting the commission of an offence: England and Wales), after paragraph 38 insert –

“*Sexual Offences Act 2003*

38ZA An offence under section 66EA of the Sexual Offences Act 2003 (requesting the creation of purported intimate image of adult).”

COMMONS AMENDMENT 67

67 Clause 141, page 175, line 16, leave out “This section” and insert “Subsection (2)”

COMMONS AMENDMENT 68

68 Clause 141, page 175, line 17, leave out “or soliciting the creation of”

COMMONS AMENDMENT 69

69 Clause 141, page 175, line 23, at end insert –

“(3) Subsection (4) applies where a person commits an offence under section 66EA of the Sexual Offences Act 2003 (requesting the creation of purported intimate image of adult).

(4) A purported intimate image which is connected with the offence, and anything containing it, is to be regarded for the purposes of section 153 (and section 157(3)(b)) as used for the purposes of committing the offence (including where it is committed by aiding, abetting, counselling or procuring).

(5) A purported intimate image is connected with an offence under section 66EA of the Sexual Offences Act 2003 if –

- (a) it appears to be of a person who was the subject of the request to which the offence relates (whether or not it is what was requested), and
- (b) it was in the offender’s possession, or under the offender’s control, as a result of that request.”

Clause 144

COMMONS AMENDMENT 70

70 Clause 144, page 177, line 25, leave out “141” and insert “141(1) to (3) and (4)”

COMMONS AMENDMENT 71

71 Clause 144, page 177, line 26, leave out “extends” and insert “extend”

COMMONS AMENDMENT 72

72 Clause 144, page 177, line 26, at end insert –

- “(d) section 141(3A) (amendment of the Armed Forces Act 2006) extends to –
- (i) England and Wales, Scotland and Northern Ireland,
 - (ii) the Isle of Man, and
 - (iii) the British overseas territories, except Gibraltar;”

COMMONS AMENDMENT 73

73 Clause 144, page 177, line 26, at end insert –

- “(d) section 141(3B) (amendment of the Serious Crime Act 2007) extends to England and Wales and Northern Ireland only.”

COMMONS AMENDMENT 74

74 Clause 144, page 177, line 26, at end insert –

- “(5A) The powers conferred by section 384(1) and (2) of the Armed Forces Act 2006 (powers to extend provisions to the Channel Islands and to make provisions apply with modifications as they extend to the Channel Islands, the Isle of Man and British overseas territories other than Gibraltar) may be exercised in relation to section 177DA of that Act (inserted by section 141(3A) of this Act).”

Clause 147

COMMONS AMENDMENT 75

75 Clause 147, page 179, line 10, leave out subsection (2)

Schedule 11

COMMONS AMENDMENT 76

76 Schedule 11, page 227, line 13, at end insert –

- “21A In section 170(2)(a) (unlawful obtaining etc of personal data), after “preventing” insert “, investigating”.
- 21B(1) Section 171 (re-identification of de-identified personal data) is amended as follows.
- (2) In subsection (3)(a), after “preventing” insert “, investigating”.
 - (3) In subsection (6)(a), after “preventing” insert “, investigating”.

Schedule 15**COMMONS AMENDMENT 77**

77 Schedule 15, page 255, line 35, at end insert –

- “(5) This section does not authorise the processing of information if the processing would contravene the data protection legislation (but in determining whether it would do so, take into account the power conferred by this section).
- (6) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).”

Title**COMMONS AMENDMENT 78**

78 Title, line 18, after “services;” insert “to make provision about works protected by copyright and the development of artificial intelligence systems;”

COMMONS AMENDMENT 79

79 Title, line 18, leave out “and solicitation”

Data (Use and Access) Bill [HL]

COMMONS AMENDMENTS

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