

Data (Use and Access) Bill [HL]

MARSHALLED LIST OF MOTIONS AND AMENDMENTS TO BE MOVED ON CONSIDERATION OF COMMONS AMENDMENTS

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

[COMMONS AMENDMENTS 1 TO 31 ARE NOT THE SUBJECT OF COUNTER-PROPOSITIONS]

COMMONS AMENDMENT 32

Clause 28

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

32A★ Viscount Camrose to move, as an amendment to the motion that this House do agree with the Commons in their Amendment 32, leave out from “House” to end and insert “do disagree with the Commons in their Amendment 32, and do propose Amendments 32B and 32C to the words so restored to the Bill –

32B Clause 28, page 30, line 34, leave out “personal data attributes” and insert “sex data”

32C Clause 28, page 30, line 34, at end insert –

“(3A) For the purposes of subsection (3), sex data is reliably ascertained if it is collected in accordance with the following category terms and definitions –

- (a) “sex” meaning male or female only based on “sex at birth”, “natal sex” or “biological sex” (these terms carrying the same meaning and capable of being used interchangeably); and
- (b) in addition, where it is lawful to do so in accordance with data protection legislation and the Gender Recognition Act 2004, “acquired gender” meaning male or female only, as recorded on a gender recognition certificate issued in accordance with the Gender Recognition Act 2004.”

[COMMONS AMENDMENT 33 IS NOT THE SUBJECT OF COUNTER-PROPOSITIONS]

COMMONS AMENDMENT 34

Clause 56

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

34A **Baroness Jones of Whitchurch to move, That this House do agree with the Commons in their Amendment 34 and do propose Amendments 34B and 34C instead of the words so left out of the Bill –**

34B Clause 56, page 54, line 17, at end insert –

“106CA Guidance

- (1) The Secretary of State must produce guidance for persons described in subsection (2) about how to protect information kept in, or obtained from, NUAR.
- (2) The persons are persons who, pursuant to regulations made under section 106C, are able to access information kept in NUAR.
- (3) The Secretary of State may revise or replace the guidance.
- (4) The Secretary of State must publish the guidance (and any revised or replacement guidance) in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons described in subsection (2).
- (5) The same guidance may discharge the obligations of the Secretary of State under this section and under Article 45CA of the Street Works (Northern Ireland) Order 1995 (S.I. 1995/3210 (N.I. 19)).”

34C Clause 58, page 64, line 37, at end insert –

“45CA Guidance

- (1) The Secretary of State must produce guidance for persons described in paragraph (2) about how to protect information kept in, or obtained from, NUAR.
- (2) The persons are persons who, pursuant to regulations made under Article 45C, are able to access information kept in NUAR.
- (3) The Secretary of State may revise or replace the guidance.
- (4) The Secretary of State must publish the guidance (and any revised or replacement guidance) in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons described in paragraph (2).
- (5) The same guidance may discharge the obligations of the Secretary of State under this Article and under section 106CA of the New Roads and Street Works Act 1991.”

[COMMONS AMENDMENTS 35 TO 42 ARE NOT THE SUBJECT OF COUNTER-PROPOSITIONS]

COMMONS AMENDMENT 43

Clause 67

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

43A★ Viscount Colville of Culross to move, as an amendment to the motion that this House do agree with the Commons in their Amendment 43, at end to insert “, and do propose Amendment 43B instead of the words so left out of the Bill –

43B Clause 67, page 75, line 28, at end insert –

- “2A. For the purposes of paragraph 2, “scientific research” means creative and systematic work undertaken in order to increase the stock of knowledge, including knowledge of humankind, culture and society, and to devise new applications of available knowledge.
- 2B. To meet the reasonableness test in paragraph 2, the activity being described as scientific research must be conducted according to appropriate ethical, legal and professional frameworks, obligations and standards.””

[COMMONS AMENDMENTS 44 AND 45 ARE NOT THE SUBJECT OF COUNTER-PROPOSITIONS]

COMMONS AMENDMENT 46

After Clause 134

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.”

VISCOUNT CAMROSE

[As amendments to Commons Amendment 46]

- 46A★** In inserted subsection (3)(b), at the end insert “, and a plan to reduce related barriers to market entry for those developers;”
- 46B★** After inserted subsection (3)(d) insert –
- “(e) the impact on United Kingdom copyright holders of extra-territorial uses of their copyright works by operators of web crawlers or AI systems whose services have links with the United Kingdom within the meaning of subsection (3A);
 - (f) technological standards for a machine-readable digital watermark for the purposes of identifying licensed content and relevant information associated with the licence, which must include the publication of such a proposed standard.
- (3A) Web crawler or AI system services have links with the United Kingdom if –
- (a) the service has a significant number of United Kingdom users, or
 - (b) United Kingdom users form one of the target markets for the service (or the only target market).”

[COMMONS AMENDMENTS 47 AND 48 ARE NOT THE SUBJECT OF COUNTER-PROPOSITIONS]

COMMONS AMENDMENT 49

Clause 137

- 49** Page 171, line 15, leave out Clause 137
- 49A★** **Baroness Kidron to move, as an amendment to the motion that this House do agree with the Commons in their Amendment 49, at end to insert “, and do propose Amendment 49B instead of the words so left out of the Bill –**
- 49B** Before Clause 138, insert the following new Clause –
- “Requirement to make provision in relation to transparency of business data used in relation to AI models**
- (1) The Secretary of State or the Treasury must by regulations make provision as set out in this section in relation to a trader which operates a service which –
 - (a) includes the making available of an artificial intelligence (AI) model, and
 - (b) has links with the United Kingdom within the meaning of subsection (2), and in relation to a data holder for the business data of such a trader.
 - (2) The service has links with the United Kingdom if –
 - (a) it has a significant number of United Kingdom users, or
 - (b) United Kingdom users form one of the target markets for the service (or the only target market).

- (3) A “data holder” for the business data of such a trader means –
 - (a) the trader, or
 - (b) a person who, in the course of a business, processes that data.
- (4) The regulations must require specified business data to be published by the trader or the data holder so as to provide copyright owners with information regarding the text and data used in the pre-training, training, fine-tuning and retrieval-augmented generation in the AI model, or any other data input to the AI model.
- (5) The regulations must require the business data to be published by the trader or the data holder in such form, at such intervals and in such manner as the regulations may prescribe, in particular so as to ensure that it is accessible to copyright owners upon request.
- (6) The regulations must require the trader or the data holder, when publishing the business data as required under subsections (4) and (5), to provide an effective mechanism to allow copyright owners to identify all individual works that they own that are used in the pre-training, training, fine-tuning and retrieval-augmented generation in the AI model, or any other data input to the AI model.
- (7) The regulations may provide that the regulations apply in modified form in order that they apply proportionately to small companies and micro-entities within the meaning of the Companies Act 2006, or apply differently to UK-registered companies within the meaning of the Companies Act 2006 as opposed to companies which are not UK-registered.
- (8) The regulations must require the trader, if bots are used in the making available of its AI model, to disclose information regarding the identity of such bots used by them or by third parties on their behalf, including but not limited to –
 - (a) the name of the bot,
 - (b) the legal entity responsible for the bot, and
 - (c) the specific purposes for which each bot is used.
- (9) In this section “bot” means an autonomous software application that can interact with systems or users (including crawlers and fetchers) and which obtains data from websites in accordance with instructions.
- (10) The regulations must make provision for enforcement of the regulations made under this section in accordance with sections 8 (enforcement of regulations under this Part), 9 (restrictions on powers of investigation etc) and 10 (financial penalties) of this Act as if this section were in Part 1 of this Act.
- (11) The Secretary of State or the Treasury must lay before Parliament a draft of the statutory instrument containing regulations under this section within 12 months of the day on which this Act is passed and the regulations are subject to the affirmative procedure.””

[COMMONS AMENDMENTS 50 AND 51 ARE NOT THE SUBJECT OF COUNTER-PROPOSITIONS]

COMMONS AMENDMENT 52

Clause 140

52 Page 173, line 13, leave out Clause 140

52A★ Viscount Camrose to move, as an amendment to the motion that this House do agree with the Commons in their Amendment 52, leave out from “House” to end and insert “do disagree with the Commons in their Amendment 52, and do propose Amendments 52B and 52C to the words so restored to the Bill –

52B Clause 140, page 173, line 15, leave out “core personal data attributes” and insert “sex data”

52C Clause 140, page 173, line 21, at end insert –

“(3) For the purposes of this section, sex data must be collected in accordance with the following category terms and definitions –

- (a) “sex” meaning male or female only based on “sex at birth”, “natal sex” or “biological sex” (these terms carrying the same meaning and capable of being used interchangeably), and
- (b) in addition, where it is lawful to do so in accordance with data protection legislation and the Gender Recognition Act 2004, “acquired gender” meaning male or female only, as recorded on a gender recognition certificate issued in accordance with the Gender Recognition Act 2004.”

[COMMONS AMENDMENTS 53 AND 54 ARE NOT THE SUBJECT OF COUNTER-PROPOSITIONS]

Clause 141

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.”

55A★ Baroness Owen of Alderley Edge to move, as an amendment to the motion that this House do agree with the Commons in their Amendment 55, leave out from “House” to end and insert “do disagree with the Commons in their Amendment 55, and do propose Amendment 55B in lieu –

55B 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 creation of the purported intimate image was a result of actions carried

out in a red team process for a technology company or as reasonable political satire.

- (7B) In subsection (7A), a “red team process” means a process for testing cybersecurity effectiveness through conducting a simulated cyberattack to identify vulnerabilities in systems.
- (7C) For the purposes of subsection (7A), reasonable political satire does not include —
 - (a) images described by subsections 66D(5)(a) and (b) of the Sexual Offences Act 2003 in any circumstances, or
 - (b) images described by subsections 66D(5)(c), (d) and (e) of that Act unless any image of a person’s genitals, buttocks or breasts is obscured to the same or a greater extent than would typically be covered by underwear worn to cover the person’s genitals, buttocks or breasts, as the case may be.”

55C★ Baroness Owen of Alderley Edge to move, as an amendment to the motion that this House do agree with the Commons in their Amendment 55, leave out from “House” to end and insert “do disagree with the Commons in their Amendment 55, and do propose Amendments 55D and 55E in lieu —

55D 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.”

55E Clause 141, page 174, line 29, at end insert —

- “(9) The Secretary of State must —
- (a) review the operation of subsection (7A),
 - (b) publish the outcome of the review in a report before the end of the period of two years beginning with the day on which this section comes into force, and
 - (c) lay the report before Parliament.”

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 —

- 10 (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),
- 15 (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).
- 20 (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
- 25 (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
- 30 (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,
- 35 (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.
- 40 (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).
- 45 (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.”

BARONESS OWEN OF ALDERLEY EDGE

[As amendments to Commons Amendment 56]

56A★ Leave out inserted subsection (7)

56B★ After inserted subsection (9) insert—

“(10) The Secretary of State must—

- (a) review the operation of subsection (7),
- (b) publish the outcome of the review in a report before the end of the period of two years beginning with the day on which this section comes into force, and
- (c) lay the report before Parliament.”

[COMMONS AMENDMENTS 57 TO 79 ARE NOT THE SUBJECT OF COUNTER-PROPOSITIONS]

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TO BE MOVED ON CONSIDERATION OF COMMONS AMENDMENTS

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