

Data (Use and Access) Bill [HL]

COMMONS INSISTENCE AND DISAGREEMENT WITH LORDS AMENDMENTS WITH REASONS

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

COMMONS AMENDMENT 32

Clause 28

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

LORDS DISAGREEMENT AND AMENDMENTS TO WORDS SO RESTORED TO THE BILL

The Lords disagree with the Commons in their Amendment 32 and 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 REASON

The Commons insist on Commons Amendment 32 to which the Lords have disagreed and disagree with the Lords in their Amendments 32B and 32C proposed to the words restored to the Bill by the Lords disagreement for the following Reason –

- 32D** *Because it is not appropriate to require the Secretary of State, in preparing the DVS trust framework, to carry out an assessment of whether listed public authorities reliably ascertain sex data.*

COMMONS AMENDMENT 43

Clause 67

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

LORDS AGREEMENT AND AMENDMENT INSTEAD OF WORDS SO LEFT OUT OF THE BILL

The Lords agree with the Commons in their Amendment 43 and 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 REASON

The Commons disagree with the Lords in their Amendment 43B for the following Reason –

- 43C** *Because it would not be appropriate to restrict the meaning of "scientific research" in the UK GDPR in the ways proposed by the Lords Amendment.*

COMMONS AMENDMENT 49

Clause 137

- 49** Page 171, line 15, leave out Clause 137

LORDS AGREEMENT AND AMENDMENT INSTEAD OF WORDS SO LEFT OUT OF THE BILL

The Lords agree with the Commons in their Amendment 49 and 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 REASON

The Commons disagree with the Lords in their Amendment 49B for the following Reason –

- 49C** *Because the Amendment would involve charges on public funds, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

COMMONS AMENDMENT 52

Clause 140

- 52** Page 173, line 13, leave out Clause 140

LORDS DISAGREEMENT AND AMENDMENTS TO WORDS SO RESTORED TO THE BILL

The Lords disagree with the Commons in their Amendment 52, and 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 REASON

The Commons insist on Commons Amendment 52 to which the Lords have disagreed and disagree with the Lords in their Amendments 52B and 52C proposed to the words restored to the Bill by the Lords disagreement for the following Reason –

52D

Because the Disagreement by the Lords to Commons Amendment 52 and the Lords Amendments would involve charges on public funds, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.

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