

**Data Protection Bill:
Summary of government amendments for Commons Report tabled on 25 April 2018**

Amendment Number	Clause / Schedule Amended	Purpose
<p>NC13 NC14 NC15</p> <p>27 to 45 47 to 52 55 to 60 64 to 65 78 to 86 93 to 96 98 to 100 102 to 105 110 122 to 134 136 to 137</p>	<p>New Clauses</p> <p>Clause 141 Clause 144 Clause 146 Clause 147 Clause 157 Clause 159 Clause 160 Clause 173 Clause 187 Clause 190 Schedule 15 Schedule 16 Schedule 18</p>	<p>Enhanced powers for the Information Commissioner The Bill and the GDPR provide the Information Commissioner with a range of enhanced powers, including the ability to levy penalties of up to 4% of global turnover or £17 million, whichever is greater. With recent high profile investigations by the Information Commissioner, the government is making further amendments to the Bill to make sure she has the enforcement tools she needs.</p> <p><u>Information notices</u> Clause 141 of the Bill allows the Commissioner to serve an information notice on a data processor or controller for the purpose of collecting information in respect of compliance with data protection legislation. Amendments 27 and 28 allow the Information Commissioner to issue an information notice to a person (e.g. an employee or former employee who might have information about a suspected breach) other than a controller or processor in certain circumstances. This will assist the Commissioner to collect all necessary information in complex investigations. NC13 introduces powers for the Commissioner to ask a court to order a person to comply with an information notice. This is designed to deter persons from refusing to hand over the information requested.</p> <p><u>Destroying or falsifying information</u> NC14 creates a new offence of destroying, disposing of, falsifying or otherwise concealing information, documents, equipment or material, with the intention of preventing the Commissioner from viewing the same, when given an information notice or assessment notice. Amendment 64 provides that a person liable for the new offence will be liable to a fine.</p> <p><u>Urgent notices</u> Clause 141 concerns powers to issue information notices, clause 144 concerns assessment notices and clause 146 concerns enforcement notices. These represent the enforcement activity that the Commissioner may undertake, short of issuing penalties or prosecuting. In urgent cases the Bill allows the Commissioner to require compliance within 7 days. Amendments 30 and 45 permit the Commissioner to require compliance with</p>

Amendment Number	Clause / Schedule Amended	Purpose
		<p>information and enforcement notices within 24 hours. Amendments 35 and 38 allow the Commissioner to request immediate compliance with an assessment notice in certain circumstances, which in effect would allow her to carry out a no notice inspection. To ensure fairness in this new expedited process, NC15 allows persons in receipt of an urgency notice to apply to a court to challenge the timetable proposed by the Commissioner. Related, amendments 29, 36, and 44 will require the Commissioner to include with her notices, information about the consequences of failing to comply. Amendments 47 to 52 provide further safeguards by requiring the Commissioner to produce further guidance about how she exercises these powers.</p> <p><u>Other notices</u> Amendment 34 gives the Commissioner the power to require the controller/processor to provide an explanation of documents, information, equipment or material that may be relevant to her investigation. Amendment 40 enables the Commissioner to issue an enforcement notice where a controller has failed to comply with the requirements in clauses 64 or 65 in respect of data protection impact assessment (this amendment responds to the Commissioner’s supplementary evidence to the Public Bill Committee).</p> <p><u>Warrants</u> Schedule 15 to the Bill provides the Commissioner with the ability to apply to a court for a warrant to enter premises and to search and seize relevant material. Amendments 78, 80, and 86 enable the Commissioner to also seek a warrant from a High Court judge (or equivalent in Scotland). Currently this can only be sought from a circuit judge or district judge (Magistrates’ Court). This will make it easier for the Commissioner to seek a warrant. Amendments 79, and 81 to 84 modernise the Commissioner’s powers under a warrant by ensuring that she can access information which might be accessible from computers in the premises, but is actually held elsewhere (e.g. in the cloud).</p> <p>The other amendments in this group are consequential, or otherwise ensuring that the drafting in the amended clauses is consistent.</p>
NC16	New Clause	<p>Duty to review provision for representation of data subjects Clause 180 of the Bill makes provision to allow not for profit bodies to represent data subjects, provided that</p>

Amendment Number	Clause / Schedule Amended	Purpose
61 to 63 70 75	Clause 182 Clause 205 Schedule 6	the individuals opt-in. Clause 182 provides for a review within 30 months of commencement to establish if this should be extended so that such bodies can represent others without requiring them to opt-in. It has been argued that children are particularly reliant on these provisions as they rely on others to represent them to enforce their rights. These amendments make it clear that the particular interests of children must be fully considered by the review.
NC17	New Clause	Maintaining contact with Ex-Regular Reserve Forces To ensure efficient operation of the Ex-Regular Reserve Forces with a liability for call out or re-call, this new clause will create a data-sharing gateway between HMRC and MoD to allow reservist's current contact details to be updated.
22 23 24	Clause 7	Parish Councils These amendments remove parish councils, parish meetings, community councils and charter trustees from the definition of "public authority" solely for the purpose of data protection legislation including the GDPR. This means, among other things, that these bodies will not be required to appoint a data protection officer.
25 26 76 77	Clause 119 Clause 120 Schedule 13	Technical matters The meaning of "personal data" and "processing" in Parts 5 to 7 of the Bill is limited by clause 3(14) which needs disapplying in some cases where the limitation is inappropriate or unhelpful.
46 53	Clause 155 Clause 157	Before publishing, (i) a document specifying the amount of the penalty for a failure to comply with charges regulations, and (ii) guidance about regulatory action, the Commissioner must consult with the Secretary of State. Further, as drafted, the Bill requires the Commissioner to consult with "such other persons as the Secretary of State" considers appropriate. This is a drafting error and other than consulting with the Secretary of State, the duty to identify other relevant persons to consult with should rest with the Information Commissioner.
66 74	Clause 198 Schedule 6	Technical amendments to provision on territorial application.
87 to 91	Schedule 17	These amendments add references to Part V of the Police Act 1997 into Schedule 17. The 1997 Act creates a statutory scheme for the disclosure of criminal records and requires the Disclosure and Barring Service (DBS)

Amendment Number	Clause / Schedule Amended	Purpose
		to issue certificates under that scheme. As already exists under the current law, employers cannot require employees to make a “subject access request” to the DBS, and instead the employer should make a DBS application. These technical amendment will ensure we maintain the status quo.
67 to 69 71 NS2 92 97 101 106 to 109 111 to 121 135 138	Clause 204 Clause 205 New Schedule	<p>Transitional, saving and related consequential provision</p> <p>The GDPR comes into force on 25 May 2018 at which point it is expected that this Bill will come into force. The Bill repeals the Data Protection Act 1998 which provides a different set of data protection requirements and enforcement mechanisms. Transitional provision explains when the previous law should continue to apply, and when the new law should apply.</p> <p>Due to the likely short period between Royal Assent and the coming into force of the Bill it is preferable that at this stage the transitional provision is clear and known.</p>
72 to 73	Schedule 1	<p>Definition of elected representatives</p> <p>These amendments extend the definition of “elected representatives” to include elected combined authority mayors and Police and Crime Commissioners.</p>

Department for Digital, Culture, Media and Sport
26 April 2018