

DATA PROTECTION BILL
AMENDMENTS TO BE MOVED IN COMMITTEE

At page 96, line 37, after clause 170 insert new clause 170A:-

<s170A Power to reflect changes to the GDPR

- (1) The Secretary of State may by regulations make such provision as the Secretary of State considers necessary to amend this Act in order to ensure that it reflects:
 - a. Any amendments made by the European Union to the GDPR
 - b. Any relevant decisions of the Court of Justice of the European Union
- (2) The power under subsection (1) includes power to add to or otherwise amend the Commissioner's functions, and
- (3) Regulations under this section are subject to the affirmative resolution procedure.>

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Effect

The amendment would give the Secretary of State delegated powers to ensure that UK data protection laws maintain alignment with the GDPR, to assist in ensuring that the UK maintains adequacy status.

Reason

The House of Lords European Union Committee report of 10 July 2017 *Brexit: the EU data protection package*,¹ explored the consequences for failure to maintain “adequacy” status (see Chapter 4). The Committee noted at paragraph 163 that “there remains the prospect that over time, the EU will amend or update its rules. Maintaining unhindered data flows with the EU post-Brexit could therefore require the UK to continue to align domestic data protection rules with EU rules that it no longer participates in setting.”

Accordingly, if the UK is to seek and thereafter maintain adequacy status with regard to EU data protection rules following UK withdrawal from the EU, it will need to ensure that the UK

¹ <https://publications.parliament.uk/pa/ld201719/ldselect/ldeucom/7/7.pdf>

rules are updated in line with any amendments to the GDPR. This is particularly important for businesses trading with the EU where a finding that the UK rules no longer offered sufficient protection could prevent data from flowing to the UK and hinder those businesses or even make it impossible for them to continue operating. The amendment seeks to grant to the Secretary of State a specific power to amend UK data protection legislation to ensure alignment with the GDPR on an ongoing basis.

At the same time, UK rules in other areas of law, for example in relation to investigatory powers, may also affect the adequacy decision.