

## New Clause 5: HMRC Communications data

### Summary

1. This clause removes a restriction on the exercise of civil information powers, which otherwise might prevent their use where data-providers are regarded as telecommunications or postal operators (for the purposes of subsections 261(10) and 262(6) of the Investigatory Powers Act 2016).

### Details of the Clause

2. Subsection (1) disapplies subsection 12(2) of the Investigatory Powers Act 2016 to general information powers contained in the legislation specified in subsection (2).
3. Subsection (2) specifies the legislation general information powers are conferred by, or under, and to which the disapplication of subsection 12(2) of the Investigatory Powers Act 2016 applies under subsection (1).
4. Subsection (3) confirms that subsection 12(2) of the Investigatory Powers Act 2016 is not disapplied to general information powers when exercised by the authority whilst conducting a criminal investigation.
5. Subsection (4) inserts new subsection 2A into subsection 12(2) of the Investigatory Powers Act 2016 giving effect to the disapplication set out in subsection (1) within that Act.
6. Subsection (5) omits Paragraph 19, subparagraphs (4) and (5) of Part 4 of Schedule 36 of the Finance Act 2008, affirming the disapplication under subsection (1) to general information powers set out in subsection (2).
7. Subsection (6) confirms the repeal at subsection 5 by omitting Paragraph 10 of Schedule 2 to the Investigatory Powers Act 2016.
8. Subsection (7) confirms that the modifications and amendments set out at Subsections (1) to (6) have always had that effect.
9. Subsection (8) sets out that subsections (9) and (10) apply where, before this Act became law, a public authority imposed a requirement in respect of communications data on a person under a general information power falling within subsection (2).
10. Subsection (9) sets out that where a requirement was imposed on a person, in the circumstances set out at in subsection (8) above, the requirement will be deemed to take effect from the date this Act comes into force, unless the public authority has withdrawn the requirement before that date, or the person has complied with the requirement before that date.
11. Subsection (10) sets out that where prior to this Act becoming law, a public authority imposed a penalty on a person for contravening a requirement (in the circumstances set out at subsections (8) and (9) above), such a penalty will have no effect, and where already paid by a person, the public authority will be liable to repay it.

## Background note

12. This Amendment is designed to provide certainty for data-providers in complying with requests for communications data, when requested by a public authority, under the general information powers set out in subsection (2) relating to tax.