

PROTECTION OF FREEDOMS BILL

The Coalition's Programme for Government included a commitment to introduce a Freedom Bill "to restore the rights of individuals in the face of encroaching state power, in keeping with Britain's tradition of freedom and fairness". The Programme for Government also included a number of specific commitments to reverse the erosion of civil liberties; this Bill gives effect to a number of these.

Key features of the Bill

Part 1: Regulation of biometric data

- Chapter 1 makes provision for the destruction, retention and use of fingerprints and DNA profiles, adopting the protections of the Scottish model. In particular, it replaces the existing framework, set out in the Police and Criminal Evidence Act 1984, whereby fingerprints and DNA profiles taken from a person arrested for, charged with or convicted of a recordable offence may be retained indefinitely. Under the new scheme, the fingerprints and DNA profile taken from persons arrested for or charged with a minor offence will be destroyed following either a decision not to charge or following acquittal. In the case of persons charged with, but not convicted of, a serious offence, fingerprints and DNA profiles may be retained for three years (with a single two-year extension period available on application by a chief officer of police to a district judge (magistrates' courts)). It will also be open to a chief officer of police to apply to the new Commissioner for the Retention and Use of Biometric Material for the DNA and fingerprints of a person arrested for, but not charged with, a serious offence to be similarly retained for three years (extendable to five years) where the alleged victim was vulnerable.
- Chapter 2 introduces a requirement on schools and colleges to obtain the consent of each parent of a child under 18 years attending the school or college before taking the child's fingerprints or otherwise processing their biometric information.

Part 2: Regulation of surveillance

- Chapter 1 makes provision for the further regulation of CCTV and ANPR (automatic number plate recognition) systems; in particular it introduces a statutory code of practice for such systems and provides for the appointment of a surveillance camera commissioner with responsibility for reviewing and reporting on the operation of the code.
- Chapter 2 requires local authorities to obtain the approval of a magistrate (or sheriff in Scotland) before exercising the covert investigatory powers under the Regulation of Investigatory Powers Act 2000 (RIPA).

Part 3: Protection of property from disproportionate enforcement action

- Chapter 1 confers powers on Ministers (i) to repeal unnecessary powers of entry and associated powers; (ii) to attach additional safeguards to the exercise of such powers, including in particular provision requiring prior authorisation by a magistrates' court and (iii) to replace such powers with new powers subject to additional safeguards.

Provision is also made for a code of practice governing the exercise of powers of entry and associated powers. Cabinet Ministers are placed under a duty to review the some 1,200 existing powers of entry and report to Parliament on the outcome of such reviews within 2 years of the Bill being enacted.

- Chapter 2 prohibits wheel clamping on private land by making it a criminal offence to immobilise, move or prevent the movement of a vehicle without lawful authority. Provision is also made to enable landowners to recover unpaid parking charges from vehicle keepers in certain circumstances.

Part 4: Counter-terrorism powers

- This Part introduces safeguards against the misuse of counter-terrorist legislation, including by replacing the powers to stop and search persons and vehicles without reasonable suspicion in section 44 of the Terrorism Act 2000 with a power that is exercisable in significantly more restricted circumstances. Similar changes are made to terrorism stop and search powers in relation to Northern Ireland. Part 4 also reduces the maximum period of pre-charge detention for terrorist suspects to 14 days.

Part 5: Safeguarding Vulnerable Groups, Criminal Records Etc.

- Chapters 1 and 2 reform of the vetting and barring scheme and criminal records regime to scale them back to common-sense levels.
- Chapter 3 establishes the Disclosure and Barring Service which will take over the existing functions of the Criminal Records Bureau and Independent Safeguarding Authority.
- Chapter 4 changes the law so that historical convictions for consensual gay sex with over-16s no longer have to be disclosed.

Part 6: Freedom of information and data protection

- This Part amends the Data Protection Act 1998 and Freedom of Information Act 2000: to create an obligation on Government departments and other public authorities to proactively release data sets in a reusable format; to extend the freedom of information regime to cover companies wholly owned by two or more public authorities; and to enhance the independence of the Information Commissioner.

Part 7: Miscellaneous and General

- This Part: repeals section 43 of the Criminal Justice Act 2003, which makes provision for certain serious fraud trials to be conducted without a jury; and removes the restrictions on the times when a marriage or civil partnership can take place.

For more information on the Bill, and to view supporting documentation, please see the Home Office web page: <http://www.homeoffice.gov.uk/publications/legislation/protection-freedoms-bill/>