

*Status: Point in time view as at 01/08/2012.*

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## SCHEDULES

### SCHEDULE 25

Section 206

#### INFORMATION SOCIETY SERVICES

##### *Service providers*

- 1 (1) This paragraph applies where a person concerned with the provision of an information society service (an “information society service provider”) is established in Great Britain.
- (2) This Act applies to anything done by the person in an EEA state (other than the United Kingdom) in providing the service as this Act would apply if the act in question were done by the person in Great Britain.
- 2 (1) This paragraph applies where an information society service provider is established in an EEA state (other than the United Kingdom).
- (2) This Act does not apply to anything done by the person in providing the service.

##### *Exceptions for mere conduits*

- 3 (1) An information society service provider does not contravene this Act only by providing so much of an information society service as consists in—
- (a) the provision of access to a communication network, or
  - (b) the transmission in a communication network of information provided by the recipient of the service.
- (2) But sub-paragraph (1) applies only if the service provider does not—
- (a) initiate the transmission,
  - (b) select the recipient of the transmission, or
  - (c) select or modify the information contained in the transmission.
- (3) For the purposes of sub-paragraph (1), the provision of access to a communication network, and the transmission of information in a communication network, includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.
- (4) Sub-paragraph (3) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

##### *Exception for caching*

- 4 (1) This paragraph applies where an information society service consists in the transmission in a communication network of information provided by a recipient of the service.

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- (2) The information society service provider does not contravene this Act only by doing anything in connection with the automatic, intermediate and temporary storage of information so provided if—
- (a) the storage of the information is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request, and
  - (b) the condition in sub-paragraph (3) is satisfied.
- (3) The condition is that the service-provider—
- (a) does not modify the information,
  - (b) complies with such conditions as are attached to having access to the information, and
  - (c) (where sub-paragraph (4) applies) expeditiously removes the information or disables access to it.
- (4) This sub-paragraph applies if the service-provider obtains actual knowledge that—
- (a) the information at the initial source of the transmission has been removed from the network,
  - (b) access to it has been disabled, or
  - (c) a court or administrative authority has required the removal from the network of, or the disablement of access to, the information.

#### *Exception for hosting*

- 5 (1) An information society service provider does not contravene this Act only by doing anything in providing so much of an information society service as consists in the storage of information provided by a recipient of the service, if—
- (a) the service provider had no actual knowledge when the information was provided that its provision amounted to a contravention of this Act, or
  - (b) on obtaining actual knowledge that the provision of the information amounted to a contravention of that section, the service provider expeditiously removed the information or disabled access to it.
- (2) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority of the control of the service provider.

#### *Monitoring obligations*

- 6 An injunction or interdict under Part 1 of the Equality Act 2006 may not impose on a person concerned with the provision of a service of a description given in paragraph 3(1), 4(1) or 5(1)—
- (a) a liability the imposition of which would contravene Article 12, 13 or 14 of the E-Commerce Directive;
  - (b) a general obligation of the description given in Article 15 of that Directive.

#### *Interpretation*

- 7 (1) This paragraph applies for the purposes of this Schedule.
- (2) “Information society service”—

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- (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive [98/34/EC](#) of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and
  - (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”.
- (3) “The E-Commerce Directive” means Directive [2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce).
- (4) “Recipient” means a person who (whether for professional purposes or not) uses an information society service, in particular for seeking information or making it accessible.
- (5) An information society service-provider is “established” in a country or territory if the service-provider—
- (a) effectively pursues an economic activity using a fixed establishment in that country or territory for an indefinite period, and
  - (b) is a national of an EEA state or a body mentioned in [<sup>F1</sup>Article 54 of the Treaty on the Functioning of the European Union] .
- (6) The presence or use in a particular place of equipment or other technical means of providing an information society service is not itself sufficient to constitute the establishment of a service-provider.
- (7) Where it cannot be decided from which of a number of establishments an information society service is provided, the service is to be regarded as provided from the establishment at the centre of the information society service provider's activities relating to that service.
- (8) Section 212(4) does not apply to references to providing a service.

#### Textual Amendments

- F1** Words in [Sch. 25 para. 7\(5\)\(b\)](#) substituted (1.8.2012) by [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\)](#), art. 3(1), [Sch. Pt.1](#) (with art. 2(2))

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