

SCHEDULES

SCHEDULE 3

Section 16.

Offence of breach of anonymity: providers of information society services

Exceptions for mere conduits

1.—(1) A service provider does not commit an offence under section 16 by providing access to a communication network or by transmitting, in a communication network, information provided by a recipient of the service, 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.

(2) For the purposes of sub-paragraph (1)—

- (a) providing access to a communication network, and
- (b) transmitting information in a communication network,

include 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.

(3) Sub-paragraph (2) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

Exception for caching

2.—(1) A service provider does not commit an offence under section 16 by storing information provided by a recipient of the service for transmission in a communication network if the first and second conditions are met.

(2) The first condition is that the storage of the information—

- (a) is automatic, intermediate and temporary, and
- (b) is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request.

(3) The second condition is that the service provider—

- (a) does not modify the information,

- (b) complies with any conditions attached to having access to the information, and
 - (c) if sub-paragraph (4) applies, promptly 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 ordered the removal from the network of, or the disablement of access to, the information.

Exception for hosting

- 3.—(1) A service provider does not commit an offence under section 16 by storing 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 constituted an offence under section 16, or
 - (b) on obtaining actual knowledge that the information constituted such an offence, the service provider promptly 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 or control of the service provider.

Interpretation

4. In this Schedule—
- “information society service” means any service normally provided—
- (a) for remuneration,
 - (b) at a distance (namely, the service is provided without the parties being simultaneously present),
 - (c) by electronic means (namely, the service is—
 - (i) sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and
 - (ii) entirely transmitted, conveyed and received by wire, radio, optical means or other electromagnetic means), and
 - (d) at the individual request of a recipient of services (namely, the service is provided through the transmission of data on individual request);

Status: *This is the original version (as it was originally enacted).*

“recipient”, in relation to a service, means a person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible;

“service provider” means a person providing an information society service.