



Online Safety Act 2023

2023 CHAPTER 50

PART 11

SUPPLEMENTARY AND GENERAL

Liability of providers etc

195 Providers that are not legal persons

- (1) In this section a “relevant entity” means an entity that—
 - (a) is the provider of a regulated service, and
 - (b) is not a legal person under the law under which it is formed.
- (2) If a penalty notice is given to a relevant entity (in the name of the entity), the penalty must be paid out of the entity’s funds.
- (3) If a notice is given by OFCOM to a relevant entity (in the name of the entity) under any provision of this Act, the notice continues to have effect despite a change in the membership of the entity.
- (4) If a penalty notice is given jointly to two or more officers or members of a relevant entity, those individuals are jointly and severally liable to pay the penalty under it.
- (5) In subsection (4) the reference to officers or members of a relevant entity includes a reference to employees of such an entity or any other individuals associated with such an entity.
- (6) In this section a “penalty notice” means—
 - (a) a confirmation decision that imposes a penalty (see sections 132(5)(b) and 137),
 - (b) a penalty notice under section 139,
 - (c) a penalty notice under section 140(5), or
 - (d) a penalty notice under section 141(6).

Status: This is the original version (as it was originally enacted).

196 Individuals providing regulated services: liability

- (1) This section applies in relation to two or more individuals who together are the provider of a regulated service (see section 226(3), (5), (7), (9) and (11)).
- (2) Any duty or requirement imposed on such a provider under any of the provisions specified in subsection (3), or any liability of such a provider to pay a fee under section 84 or Schedule 10, is to be taken to be imposed on, or to be a liability of, all the individuals jointly and severally.
- (3) The provisions are—
 - (a) Chapter 2 of Part 3 (providers of user-to-user services: duties of care);
 - (b) Chapter 3 of Part 3 (providers of search services: duties of care);
 - (c) Chapter 4 of Part 3 (children’s access assessments);
 - (d) Chapter 5 of Part 3 (duties about fraudulent advertising);
 - (e) Chapter 1 of Part 4 (user identity verification);
 - (f) Chapter 2 of Part 4 (reporting CSEA content);
 - (g) Chapter 3 of Part 4 (terms of service: transparency, accountability and freedom of expression);
 - (h) Chapter 4 of Part 4 (deceased child users);
 - (i) Chapter 5 of Part 4 (transparency reporting);
 - (j) section 81 (provider pornographic content);
 - (k) section 83 (duty to notify OFCOM).
- (4) A notice in respect of a matter that may or must be given by OFCOM under any provision of this Act may be given—
 - (a) to only one of the individuals,
 - (b) jointly to two or more of them, or
 - (c) jointly to all of them,but a separate notice may not be given to each of the individuals in respect of the matter.
- (5) If a penalty notice is given jointly to two or more individuals, those individuals are jointly and severally liable to pay the penalty under it.
- (6) In subsection (5) a “penalty notice” means—
 - (a) a confirmation decision that imposes a penalty (see sections 132(5)(b) and 137),
 - (b) a penalty notice under section 139,
 - (c) a penalty notice under section 140(5), or
 - (d) a penalty notice under section 141(6).

197 Liability of parent entities etc

Schedule 15 contains provision about—

- (a) the giving of joint provisional notices of contravention to parent entities etc,
- (b) the liability of parent entities for failures by subsidiary entities,
- (c) the liability of subsidiary entities for failures by parent entities,
- (d) the liability of fellow subsidiary entities for failures by subsidiary entities, and
- (e) the liability of controlling individuals for failures by entities.

198 Former providers of regulated services

- (1) A power conferred by Chapter 6 of Part 7 (enforcement powers) to give a notice to a provider of a regulated service is to be read as including power to give a notice to a person who was, at the relevant time, a provider of such a service but who has ceased to be a provider of such a service (and that Chapter and Schedules 13 and 15 are to be read accordingly).
- (2) “The relevant time” means—
 - (a) the time of the failure to which the notice relates, or
 - (b) in the case of a notice which relates to the requirement in section 105(1) to co-operate with an investigation, the time of the failure or possible failure to which the investigation relates.