



Online Safety Act 2023

2023 CHAPTER 50

PART 11

SUPPLEMENTARY AND GENERAL

Power to amend Act to regulate app stores

215 Power to regulate app stores

- (1) Subject to the following provisions of this section and section 216, the Secretary of State may by regulations amend any provision of this Act to make provision for or in connection with the regulation of internet services that are app stores.
- (2) Regulations under this section may not be made before OFCOM have published a report under section 161 (report about use of app stores by children).
- (3) Regulations under this section may be made only if the Secretary of State, having considered that report, considers that there is a material risk of significant harm to an appreciable number of children presented by either of the following, or by both taken together—
 - (a) harmful content present on app stores, or
 - (b) harmful content encountered by means of regulated apps available in app stores.
- (4) Before making regulations under this section the Secretary of State must consult—
 - (a) persons who appear to the Secretary of State to represent providers of app stores,
 - (b) persons who appear to the Secretary of State to represent the interests of children (generally or with particular reference to online safety matters),
 - (c) OFCOM,
 - (d) the Information Commissioner,
 - (e) the Children's Commissioner, and
 - (f) such other persons as the Secretary of State considers appropriate.

Status: This is the original version (as it was originally enacted).

- (5) In this section and in section 216—
- “amend” includes repeal and apply (with or without modifications);
 - “app” includes an app for use on any kind of device, and “app store” is to be read accordingly;
 - “content that is harmful to children” has the same meaning as in Part 3 (see section 60);
 - “harmful content” means—
 - (a) content that is harmful to children,
 - (b) search content that is harmful to children, and
 - (c) regulated provider pornographic content;
 - “regulated app” means an app for a regulated service;
 - “regulated provider pornographic content” has the same meaning as in Part 5 (see section 79);
 - “search content” has the same meaning as in Part 3 (see section 57).
- (6) In this section and in section 216 references to children are to children in the United Kingdom.

216 Power to regulate app stores: supplementary

- (1) In this section (except in subsection (4)(c)) “regulations” means regulations under section 215(1).
- (2) Provision may be made by regulations only for or in connection with the purposes of minimising or mitigating the risks of harm to children presented by harmful content as mentioned in section 215(3)(a) and (b).
- (3) Regulations may not have the effect that any body other than OFCOM is the regulator in relation to app stores.
- (4) Regulations may—
- (a) make provision exempting specified descriptions of app stores from regulation under this Act;
 - (b) make provision amending Part 2, section 55 or Schedule 1 in connection with provision mentioned in paragraph (a);
 - (c) make provision corresponding or similar to provision which may be made by regulations under paragraph 1 of Schedule 11 (“threshold conditions”), with the effect that only app stores which meet specified conditions are regulated by this Act.
- (5) Regulations may make provision having the effect that app stores provided from outside the United Kingdom are regulated by this Act (as well as app stores provided from within the United Kingdom), but, if they do so, must contain provision corresponding or similar to section 4(5) and (6) (UK links).
- (6) The provision that may be made by regulations includes provision—
- (a) imposing on providers of app stores duties corresponding or similar to duties imposed on providers of Part 3 services by—
 - (i) section 11 or 12 (children’s online safety: user-to-user services) or any of sections 20 to 23 so far as relating to section 11 or 12;

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- (ii) section 28 or 29 (children’s online safety: search services) or any of sections 31 to 34 so far as relating to section 28 or 29;
 - (b) imposing on providers of app stores duties corresponding or similar to duties imposed on providers of internet services within section 80(2) by section 81 (duties about regulated provider pornographic content);
 - (c) imposing on providers of app stores requirements corresponding or similar to requirements imposed on providers of regulated services by, or by OFCOM under, Part 6 (fees);
 - (d) imposing on OFCOM duties in relation to app stores corresponding or similar to duties imposed in relation to Part 3 services by Chapter 3 of Part 7 (OFCOM’s register of risks, and risk profiles);
 - (e) conferring on OFCOM functions in relation to app stores corresponding or similar to the functions that OFCOM have in relation to regulated services under—
 - (i) Chapter 4 of Part 7 (information), or
 - (ii) Chapter 6 of Part 7 (enforcement), including provisions of that Chapter conferring power for OFCOM to impose monetary penalties;
 - (f) about OFCOM’s production of guidance or a code of practice relating to any aspect of the regulation of app stores that is included in the regulations.
- (7) The provision that may be made by regulations includes provision having the effect that app stores fall within the definition of “Part 3 service” or “regulated service” for the purposes of specified provisions of this Act (with the effect that specified provisions of this Act which apply in relation to Part 3 services or regulated services, or to providers of Part 3 services or regulated services, also apply in relation to app stores or to providers of app stores).
- (8) Regulations may not amend or make provision corresponding or similar to—
- (a) Chapter 2 of Part 4 (reporting CSEA content),
 - (b) Chapter 5 of Part 7 (notices to deal with terrorism content and CSEA content), or
 - (c) Part 10 (communications offences).
- (9) Regulations may make different provision with regard to app stores of different kinds.
- (10) In this section “specified” means specified in regulations.