



# Online Safety Act 2023

## 2023 CHAPTER 50

### PART 11

#### SUPPLEMENTARY AND GENERAL

##### *Regulations*

#### **223 Power to make consequential provision**

- (1) The Secretary of State may by regulations make provision that is consequential on this Act or regulations under this Act.
- (2) The regulations may—
  - (a) amend or repeal provision made by the Communications Act;
  - (b) amend or revoke provision made under that Act.
- (3) The regulations may make transitional, transitory or saving provision.

#### **224 Regulations: general**

- (1) Regulations under this Act may make different provision for different purposes and may, in particular—
  - (a) make different provision with regard to—
    - (i) user-to-user services,
    - (ii) search services, and
    - (iii) internet services, other than regulated user-to-user services or regulated search services, that are within section 80(2);
  - (b) make different provision with regard to user-to-user services of different kinds;
  - (c) make different provision with regard to search services of different kinds;
  - (d) make different provision with regard to different kinds of services mentioned in paragraph (a)(iii);

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- (e) make different provision with regard to different kinds of internet services within section 80(2).
- (2) A power to make regulations under this Act includes power to make supplementary, incidental, transitional, transitory or saving provision.  
 This subsection does not apply to regulations under section 223 (consequential provision).
- (3) Any power of the Secretary of State or OFCOM under this Act to make regulations is exercisable by statutory instrument.
- (4) The Statutory Instruments Act 1946 applies in relation to OFCOM's powers to make regulations under this Act as if OFCOM were a Minister of the Crown.
- (5) The Documentary Evidence Act 1868 (proof of orders and regulations etc) has effect as if—
  - (a) OFCOM were included in the first column of the Schedule to that Act;
  - (b) OFCOM and persons authorised to act on their behalf were mentioned in the second column of that Schedule.
- (6) This section does not apply to regulations under section 240 (commencement and transitional provision).

## **225 Parliamentary procedure for regulations**

- (1) A statutory instrument containing (whether alone or with other provision)—
  - (a) regulations under section 77(12),
  - (b) regulations under section 85(1),
  - (c) regulations under section 114(2),
  - (d) regulations under section 169(3),
  - (e) regulations under section 211(2),
  - (f) regulations under section 215(1),
  - (g) regulations under section 217(1),
  - (h) regulations under section 218(1),
  - (i) regulations under section 220(1), (2), (4), (6), (7), (9) or (13),
  - (j) regulations under section 221(1),
  - (k) regulations under section 222(1) or (3),
  - (l) regulations under section 223 that amend or repeal provision made by the Communications Act,
  - (m) regulations under paragraph 7 of Schedule 4,
  - (n) regulations under paragraph 38 of Schedule 8,
  - (o) regulations under paragraph 7 of Schedule 10, or
  - (p) regulations under paragraph 5(9) of Schedule 13,
 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) A statutory instrument containing regulations under section 219(1) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

- (3) But a statutory instrument mentioned in subsection (2) may be made without a draft of the instrument being laid before, and approved by a resolution of, each House of Parliament if it contains a declaration that the Secretary of State is of the opinion that, because of urgency, it is necessary to make the regulations without a draft being so laid and approved.
- (4) After an instrument is made in accordance with subsection (3), it must be laid before Parliament.
- (5) Regulations contained in an instrument made in accordance with subsection (3) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (6) In calculating the period of 28 days, no account is to be taken of any whole days that fall within a period during which—
  - (a) Parliament is dissolved or prorogued, or
  - (b) either House of Parliament is adjourned for more than 4 days.
- (7) If regulations cease to have effect as a result of subsection (5), that does not—
  - (a) affect the validity of anything previously done under or by virtue of the regulations, or
  - (b) prevent the making of new regulations.
- (8) A statutory instrument containing the first regulations under paragraph 1(1) of Schedule 11 (whether alone or with regulations under paragraph 1(2) or (3) of that Schedule) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (9) Any other statutory instrument containing regulations under paragraph 1(1) of Schedule 11 is subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) A statutory instrument containing—
  - (a) regulations under section 67(1),
  - (b) regulations under section 85(2),
  - (c) regulations under section 86,
  - (d) regulations under section 170(1),
  - (e) regulations under section 223 that do not amend or repeal provision made by the Communications Act,
  - (f) regulations under paragraph 8(1) of Schedule 3, or
  - (g) regulations under paragraph 1(2) or (3) of Schedule 11,is subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) As soon as a draft of a statutory instrument containing regulations under section 85(1) or paragraph 5(9) of Schedule 13 (whether alone or with provision under section 85(2)) is ready for laying before Parliament, OFCOM must send the draft to the Secretary of State, and the Secretary of State must lay the draft before Parliament.
- (12) Immediately after making a statutory instrument containing only regulations under section 85(2), OFCOM must send the instrument to the Secretary of State, and the Secretary of State must lay it before Parliament.

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- (13) Regulations made by the Scottish Ministers under—
- (a) section 221(3), and
  - (b) section 222(2),
- are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).
- (14) A statutory instrument containing regulations under section 221(5) may not be made by the Welsh Ministers unless a draft of the instrument has been laid before and approved by a resolution of Senedd Cymru.
- (15) The power of the relevant Department to make regulations under section 221(7) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (16) Regulations may not be made by the relevant Department under section 221(7) unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.
- (17) In subsections (15) and (16), “the relevant Department” has the same meaning as in section 221(7) (see subsection (8) of that section).