



Online Safety Act 2023

2023 CHAPTER 50

PART 11

SUPPLEMENTARY AND GENERAL

Repeals and amendments

209 Amendments of Part 4B of the Communications Act

Schedule 16 contains amendments of Part 4B of the Communications Act.

210 Repeal of Part 4B of the Communications Act

- (1) In the Communications Act, omit Part 4B (video-sharing platform services).
- (2) In the Audiovisual Media Services Regulations 2020 ([S.I. 2020/1062](#)), omit Part 4 (which inserts Part 4B into the Communications Act).
- (3) In this Act, omit—
 - (a) section 209, and
 - (b) Schedule 16.
- (4) In the Audiovisual Media Services (Amendment) (EU Exit) Regulations 2020 ([S.I. 2020/1536](#)), omit regulation 4.

211 Repeal of Part 4B of the Communications Act: transitional provision etc

- (1) Schedule 17 contains transitional, transitory and saving provision—
 - (a) about the application of this Act and Part 4B of the Communications Act during a period before the repeal of Part 4B of the Communications Act (or, in the case of Part 3 of Schedule 17, in respect of charging years as mentioned in that Part);
 - (b) in connection with the repeal of Part 4B of the Communications Act.

Status: This is the original version (as it was originally enacted).

- (2) The Secretary of State may by regulations make transitional, transitory or saving provision of the kind mentioned in subsection (1)(a) and (b).
- (3) Regulations under subsection (2) may amend or repeal—
 - (a) Part 3 of Schedule 3;
 - (b) Schedule 17.
- (4) Regulations under subsection (2) may, in particular, make provision about—
 - (a) the application of Schedule 17 in relation to a service if the transitional period in relation to that service ends on a date before the date when section 210 comes into force;
 - (b) the application of Part 3 of Schedule 17, including further provision about the calculation of a provider’s non-Part 4B qualifying worldwide revenue for the purposes of paragraph 19 of that Schedule;
 - (c) the application of Schedule 10 (recovery of OFCOM’s initial costs), and in particular how fees chargeable under that Schedule may be calculated, in respect of charging years to which Part 3 of Schedule 17 relates.

212 Repeals: Digital Economy Act 2017

- (1) The Digital Economy Act 2017 is amended as follows.
- (2) Omit—
 - (a) Part 3 (online pornography), and
 - (b) section 119(10) and (11) (power to extend that Part to the Channel Islands or the Isle of Man).
- (3) Omit section 103 (code of practice for providers of online social media platforms).

213 Offence under the Obscene Publications Act 1959: OFCOM defence

- (1) Section 2 of the Obscene Publications Act 1959 (prohibition of publication of obscene matter) is amended in accordance with subsections (2) and (3).
- (2) After subsection (5) insert—

“(5A) A person shall not be convicted of an offence against this section of the publication of an obscene article if the person proves that—

 - (a) at the time of the offence charged, the person was a member of OFCOM, employed or engaged by OFCOM, or assisting OFCOM in the exercise of any of their online safety functions (within the meaning of section 235 of the Online Safety Act 2023), and
 - (b) the person published the article for the purposes of OFCOM’s exercise of any of those functions.”
- (3) In subsection (7)—
 - (a) the words after “In this section” become paragraph (a), and
 - (b) at the end of that paragraph, insert “;
 - (b) “OFCOM” means the Office of Communications.”

214 Offences regarding indecent photographs of children: OFCOM defence

England and Wales

- (1) Section 1B of the Protection of Children Act 1978 (defence to offence relating to indecent photographs of children) is amended in accordance with subsections (2) and (3).
- (2) In subsection (1)—
- (a) for “he”, in each place, substitute “the defendant”;
 - (b) for “him”, in each place, substitute “the defendant”;
 - (c) omit “or” at the end of paragraph (b);
 - (d) at the end of paragraph (c) insert “, or
 - (d) the defendant—
 - (i) was at the time of the offence charged a member of OFCOM, employed or engaged by OFCOM, or assisting OFCOM in the exercise of any of their online safety functions (within the meaning of section 235 of the Online Safety Act 2023), and
 - (ii) made the photograph or pseudo-photograph for the purposes of OFCOM’s exercise of any of those functions.”

- (3) After subsection (2) insert—

“(3) In this section “OFCOM” means the Office of Communications.”

Scotland

- (4) Section 52 of the Civic Government (Scotland) Act 1982 (indecent photographs of children) is amended in accordance with subsections (5) and (6).

- (5) After subsection (4) insert—

“(4A) Where a person is charged with an offence under subsection (1)(a) of making an indecent photograph or pseudo-photograph of a child, it shall be a defence for the person to prove that—

- (a) at the time of the offence charged, the person was a member of OFCOM, employed or engaged by OFCOM, or assisting OFCOM in the exercise of any of their online safety functions (within the meaning of section 235 of the Online Safety Act 2023), and
- (b) the person made the photograph or pseudo-photograph for the purposes of OFCOM’s exercise of any of those functions.”

- (6) In subsection (8), after paragraph (d) insert—

“(e) “OFCOM” means the Office of Communications.”

Northern Ireland

- (7) Article 3A of the Protection of Children (Northern Ireland) Order 1978 ([S.I. 1978/1047 \(N.I. 17\)](#)) (defence to offence relating to indecent photographs of children) is amended in accordance with subsections (8) and (9).

- (8) In paragraph (1)—

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

- (a) for “he”, in each place, substitute “the defendant”;
 - (b) for “him”, in each place, substitute “the defendant”;
 - (c) omit “or” at the end of sub-paragraph (b);
 - (d) at the end of sub-paragraph (c) insert “, or
 - (d) the defendant—
 - (i) was at the time of the offence charged a member of OFCOM, employed or engaged by OFCOM, or assisting OFCOM in the exercise of any of their online safety functions (within the meaning of section 235 of the Online Safety Act 2023), and
 - (ii) made the photograph or pseudo-photograph for the purposes of OFCOM’s exercise of any of those functions.”
- (9) After paragraph (2) insert—
- “(3) In this Article “OFCOM” means the Office of Communications.”