



Online Safety Act 2023

2023 CHAPTER 50

PART 7

OFCOM'S POWERS AND DUTIES IN RELATION TO REGULATED SERVICES

CHAPTER 4

INFORMATION

Information offences and penalties

109 Offences in connection with information notices

- (1) A person commits an offence if the person fails to comply with a requirement of an information notice.
- (2) It is a defence for a person charged with an offence under subsection (1) to show that—
 - (a) it was not reasonably practicable to comply with the requirements of the information notice at the time required by the notice, but
 - (b) the person has subsequently taken all reasonable steps to comply with those requirements.
- (3) A person commits an offence if, in response to an information notice—
 - (a) the person provides information that is false in a material respect, and
 - (b) at the time the person provides it, the person knows that it is false in a material respect or is reckless as to whether it is false in a material respect.
- (4) A person commits an offence if, in response to an information notice, the person—
 - (a) provides information which is encrypted such that it is not possible for OFCOM to understand it, or produces a document which is encrypted such that it is not possible for OFCOM to understand the information it contains, and

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- (b) the person's intention was to prevent OFCOM from understanding such information.
- (5) A person commits an offence if—
- (a) the person suppresses, destroys or alters, or causes or permits the suppression, destruction or alteration of, any information required to be provided, or document required to be produced, by an information notice, and
 - (b) the person's intention was to prevent OFCOM from being provided with the information or document or (as the case may be) from being provided with it as it was before the alteration.
- (6) The reference in subsection (5) to suppressing information or a document includes a reference to destroying the means of reproducing information recorded otherwise than in a legible form.
- (7) Offences under this section may be committed only in relation to an information notice which—
- (a) relates to—
 - (i) a user-to-user service,
 - (ii) a search service, or
 - (iii) an internet service on which regulated provider pornographic content is published or displayed; and
 - (b) is given to the provider of that service.
- (8) If a person is convicted of an offence under this section, the court may, on an application by the prosecutor, make an order requiring the person to comply with a requirement of an information notice within such period as may be specified by the order.
- (9) See also section 201 (supplementary provision about defences).
- (10) In this section, “regulated provider pornographic content” and “published or displayed” have the same meaning as in Part 5 (see section 79).

110 Senior managers' liability: information offences

- (1) In this section “an individual named as a senior manager of an entity” means an individual who, as required by an information notice, is named as a senior manager of an entity in a response to that notice (see section 103).
- (2) An individual named as a senior manager of an entity commits an offence if—
- (a) the entity commits an offence under section 109(1) (failure to comply with information notice), and
 - (b) the individual has failed to take all reasonable steps to prevent that offence being committed.
- (3) It is a defence for an individual charged with an offence under subsection (2) to show that the individual was a senior manager within the meaning of section 103 for such a short time after the information notice in question was given that the individual could not reasonably have been expected to take steps to prevent that offence being committed.
- (4) An individual named as a senior manager of an entity commits an offence if—
- (a) the entity commits an offence under section 109(3) (false information), and

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- (b) the individual has failed to take all reasonable steps to prevent that offence being committed.
- (5) An individual named as a senior manager of an entity commits an offence if—
 - (a) the entity commits an offence under section 109(4) (encrypted information), and
 - (b) the individual has failed to take all reasonable steps to prevent that offence being committed.
- (6) An individual named as a senior manager of an entity commits an offence if—
 - (a) the entity commits an offence under section 109(5) (destruction etc of information), and
 - (b) the individual has failed to take all reasonable steps to prevent that offence being committed.
- (7) It is a defence for an individual charged with an offence under subsection (4), (5) or (6) to show that the individual was not a senior manager within the meaning of section 103 at the time at which the act constituting the offence occurred.
- (8) It is a defence for an individual charged with an offence under this section to show that the individual had no knowledge of being named as a senior manager in a response to the information notice in question.
- (9) See also section 201 (supplementary provision about defences).

111 Offences in connection with notices under Schedule 12

- (1) A person commits an offence if the person fails without reasonable excuse to comply with a requirement of an audit notice.
- (2) A person commits an offence if, in response to an audit notice—
 - (a) the person provides information that is false in a material respect, and
 - (b) at the time the person provides it, the person knows that it is false in a material respect or is reckless as to whether it is false in a material respect.
- (3) A person commits an offence if—
 - (a) the person suppresses, destroys or alters, or causes or permits the suppression, destruction or alteration of, any information required to be provided, or document required to be produced, by a notice to which this subsection applies, and
 - (b) the person's intention was to prevent OFCOM from being provided with the information or document or (as the case may be) from being provided with it as it was before the alteration.
- (4) The reference in subsection (3) to suppressing information or a document includes a reference to destroying the means of reproducing information recorded otherwise than in a legible form.
- (5) Subsection (3) applies to—
 - (a) a notice under paragraph 3 of Schedule 12 (information required for inspection), and
 - (b) an audit notice (see paragraph 4 of that Schedule).

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- (6) If a person is convicted of an offence under this section, the court may, on an application by the prosecutor, make an order requiring the person, within such period as may be specified by the order, to comply with a requirement of a notice under paragraph 3 of Schedule 12 or an audit notice (as the case may be).

112 Other information offences

- (1) A person commits an offence if the person intentionally obstructs or delays a person in the exercise of the power conferred by section 102(7)(a) (copying a document etc).
- (2) A person commits an offence if the person fails without reasonable excuse to comply with a requirement under section 106 (interviews).
- (3) A person commits an offence if, in purported compliance with a requirement under section 106—
- (a) the person provides information that is false in a material respect, and
 - (b) at the time the person provides it, the person knows that it is false in a material respect or is reckless as to whether it is false in a material respect.
- (4) If a person is convicted of an offence under this section, the court may, on an application by the prosecutor, make an order requiring the person, within such period as may be specified by the order, to permit the making of a copy of a document, or to comply with a requirement under section 106 (as the case may be).

113 Penalties for information offences

- (1) A person who commits an offence under section 109(1), 110(2) or 111(1) is liable—
- (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum;
 - (c) on conviction on indictment, to a fine.
- (2) A person who commits an offence under section 109(3), (4) or (5), 110(4), (5) or (6), 111(2) or (3) or 112(1) is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);
 - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
 - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
 - (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (3) A person who commits an offence under section 112(2) or (3) is liable—
- (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland, to a fine not exceeding level 5 on the standard scale;
 - (c) on summary conviction in Northern Ireland, to a fine not exceeding level 5 on the standard scale.