

SCHEDULES

SCHEDULE 1

Sections 3 and 4

EXEMPT USER-TO-USER AND SEARCH SERVICES

PART 1

DESCRIPTIONS OF SERVICES WHICH ARE EXEMPT

Email services

- 1 A user-to-user service is exempt if emails are the only user-generated content (other than identifying content) enabled by the service.

SMS and MMS services

- 2 (1) A user-to-user service is exempt if SMS messages are the only user-generated content (other than identifying content) enabled by the service.
(2) A user-to-user service is exempt if MMS messages are the only user-generated content (other than identifying content) enabled by the service.
(3) A user-to-user service is exempt if SMS messages and MMS messages are the only user-generated content (other than identifying content) enabled by the service.
(4) “SMS message” and “MMS message” have the meaning given by section 55(12).

Services offering only one-to-one live aural communications

- 3 (1) A user-to-user service is exempt if one-to-one live aural communications are the only user-generated content (other than identifying content) enabled by the service.
(2) “One-to-one live aural communications” has the meaning given by section 55(5).

Limited functionality services

- 4 (1) A user-to-user service is exempt if the functionalities of the service are limited, such that users are able to communicate by means of the service only in the following ways—
 - (a) posting comments or reviews relating to provider content;
 - (b) sharing such comments or reviews on a different internet service;
 - (c) expressing a view on such comments or reviews, or on provider content, by means of—
 - (i) applying a “like” or “dislike” button or other button of that nature,
 - (ii) applying an emoji or symbol of any kind,
 - (iii) engaging in yes/no voting, or

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- (iv) rating or scoring the content (or the comments or reviews) in any way (including giving star or numerical ratings);
 - (d) producing or displaying identifying content in connection with any of the activities described in paragraphs (a) to (c).
- (2) In sub-paragraph (1), “provider content” means content published on a service by the provider of the service or by a person acting on behalf of the provider, including where the publication of the content is effected or controlled by means of—
- (a) software or an automated tool or algorithm applied by the provider or by a person acting on behalf of the provider, or
 - (b) an automated tool or algorithm made available on the service by the provider or by a person acting on behalf of the provider.
- (3) For the purposes of this paragraph, content that is user-generated content in relation to a service is not to be regarded as provider content in relation to that service.

Services which enable combinations of user-generated content

- 5 A user-to-user service is exempt if the only user-generated content enabled by the service is content of the following kinds—
- (a) content mentioned in paragraph 1, 2 or 3 and related identifying content;
 - (b) content arising in connection with any of the activities described in paragraph 4(1).

Exception to exemptions in paragraphs 1 to 5

- 6 But a user-to-user service described in any of paragraphs 1 to 5 is not exempt if—
- (a) regulated provider pornographic content is published or displayed on the service, and
 - (b) the service has links with the United Kingdom within the meaning of section 80(4).

Internal business services (entire user-to-user service or search service)

- 7 (1) A user-to-user service or a search service is exempt if the conditions in sub-paragraph (2) are met in relation to the service.
- (2) The conditions are—
- (a) the user-to-user service or search service is an internal resource or tool for a business, or for more than one business carried on by the same person,
 - (b) the person carrying on the business (or businesses) (“P”) is the provider of the user-to-user service or search service, and
 - (c) the user-to-user service or search service is available only to a closed group of people comprising some or all of the following—
 - (i) where P is an individual or individuals, that individual or those individuals,
 - (ii) where P is an entity, officers of P,
 - (iii) persons who work for P (including as employees or volunteers) for the purposes of any activities of the business (or any of the businesses) in question, and

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(iv) any other persons authorised by a person within sub-paragraph (i), (ii) or (iii) to use the service for the purposes of any activities of the business (or any of the businesses) in question (for example, a contractor, consultant or auditor, or in the case of an educational institution, pupils or students).

(3) In this paragraph—

“business” includes trade, profession, educational institution or other concern (whether or not carried on for profit);

“officer” includes a director, manager, partner, associate, secretary, governor, trustee or other similar officer.

Internal business services (part of user-to-user service or search service)

8 (1) A user-to-user service is exempt if—

- (a) the conditions in paragraph 7(2) are met in relation to a part of the service,
- (b) no user-generated content is enabled by the rest of the service, and
- (c) no regulated provider pornographic content is published or displayed on the rest of the service.

(2) A user-to-user service is also exempt if—

- (a) the conditions in paragraph 7(2) are met in relation to a part of the service,
- (b) the only user-generated content enabled by the rest of the service is—
 - (i) content mentioned in paragraph 1, 2 or 3 and related identifying content, or
 - (ii) content arising in connection with any of the activities described in paragraph 4(1), and
- (c) no regulated provider pornographic content is published or displayed on the rest of the service.

(3) A search service is exempt if—

- (a) the conditions in paragraph 7(2) are met in relation to a part of the service that is a search engine,
- (b) the service does not include a public search engine, and
- (c) no regulated provider pornographic content is published or displayed on the rest of the service.

(4) In this paragraph—

“public search engine” means a search engine other than one in relation to which the conditions in paragraph 7(2) are met;

“the rest of the service” means all parts of the user-to-user service or search service other than the part in relation to which the conditions in paragraph 7(2) are met.

Services provided by public bodies

9 (1) A user-to-user service or a search service is exempt if—

- (a) both of the following conditions are met in relation to the service—
 - (i) the provider of the service is a public authority within the meaning of section 6 of the Human Rights Act 1998, and
 - (ii) the service is provided in the exercise of public functions only,

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- (b) the provider of the service is Parliament, either House of Parliament, the Scottish Parliament, Senedd Cymru, the Northern Ireland Assembly or a person acting on behalf of any of those institutions,
 - (c) the provider of the service is a foreign sovereign power, or
 - (d) both of the following conditions are met in relation to the service—
 - (i) the provider of the service is an entity formed under the law of a country outside the United Kingdom, which exercises functions of a public nature, and
 - (ii) the service is provided in the exercise of such functions only.
- (2) But a user-to-user service or a search service is not exempt under this paragraph if—
- (a) the provider of the service is a person providing education or childcare, and
 - (b) the service is provided for the purposes of that education or childcare.
- See paragraph 10 for an exemption for services provided by persons providing education or childcare of particular descriptions.
- (3) This paragraph is without prejudice to the fact that this Act does not apply in relation to a user-to-user or search service provided by the Crown.
- (4) In this paragraph, “public function” means a function that is a function of a public nature for the purposes of the Human Rights Act 1998.

Services provided by persons providing education or childcare

- 10 (1) A user-to-user service or a search service is exempt if—
- (a) the provider of the service is—
 - (i) the person with legal responsibility for education or childcare of a description listed in Part 2 of this Schedule (“the responsible person”), or where the responsible person is a body, a member of that body, or
 - (ii) a person who is employed or engaged to provide education or childcare of a description listed in Part 2 of this Schedule, and who is subject to safeguarding duties which relate to the provision of that education or childcare, and
 - (b) the service is provided for the purposes of that education or childcare.
- (2) In sub-paragraph (1)(a)(ii), “safeguarding duties” means duties or requirements which are related to the safeguarding of children arising under enactments other than this Act, under guidance or requirements (however referred to) produced under enactments other than this Act, or as a result of contractual arrangements made by the responsible person.
- (3) For the purposes of this paragraph, the person with legal responsibility for education or childcare of a particular description is the person with legal responsibility for its day-to-day provision (for example, the person with legal responsibility for a particular school), rather than any other person who has a duty to ensure that, in general, education or childcare of that description (or education or childcare which includes education or childcare of that description) is provided.

Interpretation

- 11 In Part 1 of this Schedule—

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“enactment” includes—

- (a) an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978),
- (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
- (c) an enactment contained in, or in an instrument made under, a Measure or Act of Senedd Cymru, and
- (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation;

“regulated provider pornographic content” and “published or displayed” have the same meaning as in Part 5 (see section 79);

“user-generated content” has the meaning given by section 55 (see subsections (3) and (4) of that section).

PART 2

PARAGRAPH 10 EXEMPTION: DESCRIPTIONS OF EDUCATION AND CHILDCARE

England

- 12 Early years childminding by an early years childminder registered under Chapter 2 of Part 3 of the Childcare Act 2006.
- 13 Early years provision by a person registered under Chapter 2 of Part 3 of that Act.
- 14 Later years childminding by a later years childminder registered under Chapter 3 of Part 3 of that Act.
- 15 Later years provision by a person registered under Chapter 3 of Part 3 of that Act.
- 16 Education or childcare in a maintained nursery school within the meaning of section 22 of the School Standards and Framework Act 1998.
- 17 Education or childcare in—
 - (a) an Academy school, within the meaning of section 1A of the Academies Act 2010;
 - (b) an alternate provision Academy, within the meaning of section 1C of that Act;
 - (c) a maintained school, within the meaning of the School Standards and Framework Act 1998 (see section 20(7) of that Act);
 - (d) a non-maintained special school, being a school that is approved under section 342 of the Education Act 1996;
 - (e) an independent educational institution registered on the register maintained under section 95 of the Education and Skills Act 2008;
 - (f) a pupil referral unit, within the meaning of section 19 of the Education Act 1996.
- 18 Education in—
 - (a) an institution in England within the further education sector, within the meaning of the Further and Higher Education Act 1992 (see section 91(3) of that Act);

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- (b) a 16 to 19 Academy, within the meaning of section 1B of the Academies Act 2010;
 - (c) a special post-16 institution, within the meaning of Part 3 of the Children and Families Act 2014 (see section 83(2) of that Act).
- 19 Education provided by an independent training provider.
- 20 Further education for persons under 19 provided by a local authority in England.
- 21 In paragraphs 12 to 15, “early years childminding”, “early years provision”, “later years childminding” and “later years provision” have the same meaning as in Part 3 of the Childcare Act 2006 (see section 98 of that Act).
- 22 In paragraph 19, “independent training provider” means a provider—
- (a) that is a provider of post-16 education or training carried on, or partly carried on, in England—
 - (i) to which Chapter 3 of Part 8 of the Education and Inspections Act 2006 (inspection of further education and training etc) applies, and
 - (ii) which is funded, wholly or partly, by the Secretary of State, a local authority in England or a combined authority, but
 - (b) that is not—
 - (i) an employer who only provides such education or training to its employees,
 - (ii) a 16 to 19 Academy (within the meaning of section 1B of the Academies Act 2010),
 - (iii) a school,
 - (iv) a local authority in England,
 - (v) an institution within the further education sector (within the meaning given by section 91(3) of the Further and Higher Education Act 1992), or
 - (vi) a higher education provider (within the meaning given by section 83(1) of the Higher Education and Research Act 2017).
- 23 In paragraphs 20 and 22, “local authority in England” has the same meaning as in the Education Act 1996 (see sections 579(1) and 581 of that Act).
- 24 In paragraph 22—
- “combined authority” means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;
 - “school” has the meaning given by section 4(1) of the Education Act 1996.

Scotland

- 25 Early learning and childcare, within the meaning of Part 6 of the Children and Young People (Scotland) Act 2014 (asp 8) (see section 46 of that Act).
- 26 Child minding, within the meaning of Part 5 of the Public Services Reform (Scotland) Act 2010 (asp 8) (see paragraph 12 of Schedule 12 to that Act).
- 27 Day care of children, within the meaning of Part 5 of that Act (see paragraph 13 of Schedule 12 to that Act).
- 28 Primary education, secondary education or childcare in—
- (a) a school, or

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- (b) a hostel used mainly by pupils attending a school;
and in this paragraph “school” has the same meaning as in the Education (Scotland) Act 1980 (see section 135(1) of that Act).
- 29 Further education provided by a body listed under the heading “Institutions formerly eligible for funding by the Scottish Further Education Funding Council” or under the heading “Other institutions” in Schedule 2 to the Further and Higher Education (Scotland) Act 2005 (asp 6).
- 30 Further education provided by a college of further education which is assigned to a regional strategic body by an order made under section 7C(1) of that Act.

Wales

- 31 Child minding by a person who is registered as a child minder under Part 2 of the [Children and Families \(Wales\) Measure 2010 \(nawm 1\)](#).
- 32 Day care for children by a person who is registered to provide day care for children under Part 2 of that Measure.
- 33 Primary education, secondary education or childcare in a school in Wales, within the meaning of the Education Act 1996 as it applies in relation to Wales (see section 4 of that Act).
- 34 Education provided in accordance with section 19A of the Education Act 1996.
- 35 Further education in an institution in Wales within the further education sector, within the meaning of the Further and Higher Education Act 1992 (see section 91(3) of that Act).
- 36 Any other post-16 education or training in Wales, the facilities for which are secured under section 31(1)(a) or (b) or 32(1)(a) or (b) of the Learning and Skills Act 2000, that is funded by the Welsh Ministers or a local authority in Wales (within the meaning of section 579(1) of the Education Act 1996), but that is not provided by—
- (a) an institution in Wales within the higher education sector, within the meaning of the Further and Higher Education Act 1992 (see section 91(5) of that Act), or
 - (b) a person who is a provider of such post-16 education or training only by reason of providing such education or training to the person’s employees.
- 37 In paragraphs 31 and 32, “child minding” and “day care for children” have the same meaning as in Part 2 of the [Children and Families \(Wales\) Measure 2010](#) (see section 19 of that Measure).

Northern Ireland

- 38 Childcare by persons who act as child minders or provide day care for children within the meaning of the [Children \(Northern Ireland\) Order 1995 \(S.I. 1995/755 \(N.I. 2\)\)](#), and who are registered under Article 118 of that Order.
- 39 Pre-school education, within the meaning of Part 5 of the [Education \(Northern Ireland\) Order 1998 \(S.I. 1998/1759 \(N.I. 13\)\)](#) (see Article 17(8) of that Order).
- 40 Education in a nursery school, within the meaning of the [Education and Libraries \(Northern Ireland\) Order 1986 \(S.I. 1986/594 \(N.I. 3\)\)](#) (see Article 2(2) of that Order).

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- 41 Education or childcare in a school, within the meaning of the Education and Libraries (Northern Ireland) Order 1986 (see Article 2(2) of that Order).
- 42 Education which is suitable education otherwise than at school provided in accordance with Article 86 of the Education (Northern Ireland) Order 1998.
- 43 Education in an institution of further education, within the meaning of the Further Education (Northern Ireland) Order 1997 ([S.I. 1997/1772 \(N.I. 15\)](#)) (see Article 2(2) of that Order).
- 44 Education in agriculture and related subjects.

PART 3

INTERPRETATION

- 45 The following definitions apply for the purposes of this Schedule.
- 46 “Childcare”—
- (a) in relation to provision in England, has same meaning as in the Childcare Act 2006 (see section 18 of that Act);
 - (b) in relation to provision in Scotland, means early learning and childcare within the meaning of Part 6 of the Children and Young People (Scotland) Act 2014 (see section 46 of that Act), and any form of care provided outside school hours or during school holidays to children who are in attendance at an educational establishment (and in this paragraph, “educational establishment” has the same meaning as in the Education (Scotland) Act 1980 (see section 135(1) of that Act));
 - (c) in relation to provision in Wales, means anything that amounts to child minding or day care for children for the purposes of Part 2 of the Children and Families (Wales) Measure 2010 (see section 19(2) to (4) of that Measure), and any form of care provided by a school outside school hours or during school holidays (and in this paragraph “school” has the same meaning as in the Education Act 1996 as it applies in relation to Wales (see section 4 of that Act));
 - (d) in relation to provision in Northern Ireland, means anything that amounts to child minding or day care for the purposes of Part 11 of the Children (Northern Ireland) Order 1995, and any form of care provided by a school outside school hours or during school holidays (and in this paragraph “school” has the same meaning as in the Education and Libraries (Northern Ireland) Order (see Article 2(2) of that Order)).
- 47 “Education”—
- (a) in relation to provision in England, Wales and Scotland, means primary education, secondary education, further education or higher education;
 - (b) in relation to provision in Northern Ireland, means primary education, secondary education, further education, higher education or education in agriculture and related subjects.
- 48 “Education in agriculture and related subjects”, in relation to provision in Northern Ireland, means education consisting of instruction in agriculture and related subjects provided by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland under section 5(2)(a) of the [Agriculture Act \(Northern Ireland\)](#)

1949 (c. 2 (N.I.)), but not where the instruction is provided only to the Department’s employees.

- 49 “Further education”—
- (a) in relation to provision in England and Wales, has the same meaning as in the Education Act 1996 (see section 2 of that Act);
 - (b) in relation to provision in Scotland, has the same meaning as in Part 1 of the Further and Higher Education (Scotland) Act 1992 (see sections 1(3) and 6 of that Act);
 - (c) in relation to provision in Northern Ireland, has the same meaning as in the Further Education (Northern Ireland) Order 1997 (see Article 3 of that Order).
- 50 “Higher education”—
- (a) in relation to provision in England and Wales, has the same meaning as in the Education Act 1996 (see section 579(1) of that Act);
 - (b) in relation to provision in Scotland, has the same meaning as in Part 2 of the Further and Higher Education (Scotland) Act 1992 (see section 38 of that Act);
 - (c) in relation to provision in Northern Ireland, means—
 - (i) “higher education” within the meaning of the Further Education (Northern Ireland) Order 1997 (see Article 2(2) of that Order), and
 - (ii) any other education provided by a higher education institution within the meaning of the Education and Libraries (Northern Ireland) Order 1993 (S.I. 1993/2810 (N.I. 12)) (see Article 30 of that Order).
- 51 “Primary education” and “secondary education”—
- (a) in relation to provision in England and Wales, have the same meaning as in the Education Act 1996 (see section 2 of that Act);
 - (b) in relation to provision in Scotland, have the same meaning as in the Education (Scotland) Act 1980 (see section 135(2) of that Act);
 - (c) in relation to provision in Northern Ireland, have the same meaning as in the Education and Libraries (Northern Ireland) Order 1986 (see Article 2(2) of that Order).