

SCHEDULES

SCHEDULE 9

Section 80

CERTAIN INTERNET SERVICES NOT SUBJECT TO DUTIES RELATING TO REGULATED PROVIDER PORNOGRAPHIC CONTENT

Internal business services (entire internet service)

- 1 (1) An internet service, other than a user-to-user service or a search service, in relation to which the conditions in sub-paragraph (2) are met.
- (2) The conditions are—
- (a) the internet 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 internet service, and
 - (c) the internet 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
 - (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 internet service)

- 2 (1) An internet service, other than a user-to-user service or a search service, within sub-paragraph (2).
- (2) An internet service is within this sub-paragraph if—
- (a) the conditions in paragraph 1(2) are met in relation to a part of the service, and
 - (b) no regulated provider pornographic content is published or displayed on the rest of the service.

- (3) In sub-paragraph (2)(b), “the rest of the service” means all parts of the internet service other than the part in relation to which the conditions in paragraph 1(2) are met.

Services provided by public bodies

- 3 (1) An internet service, other than a user-to-user service or a search service, which is provided by a public body.
- (2) An internet service is “provided by a public body” 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,
 - (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.
- (3) But an internet service is not within 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 4.
- (4) This paragraph is without prejudice to the fact that this Act does not apply in relation to an internet service provided by the Crown.
- (5) 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

- 4 (1) An internet service, other than a user-to-user service or a search service—
- (a) of which the provider is—
 - (i) the person with legal responsibility for education or childcare of a description listed in Part 2 of Schedule 1 (“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 Schedule 1, and who is subject to safeguarding duties which relate to the provision of that education or childcare, and
 - (b) which 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.

On-demand programme services (entire internet service)

- 5 (1) An internet service that is an on-demand programme service.
- (2) In this paragraph and paragraph 6, “on-demand programme service” has the same meaning as in the Communications Act (see section 368A of that Act).

On-demand programme services (part of internet service)

- 6 (1) An internet service within sub-paragraph (2).
- (2) An internet service is within this sub-paragraph if—
- (a) part of the service is an on-demand programme service, and
 - (b) no regulated provider pornographic content is published or displayed on the rest of the service.
- (3) In sub-paragraph (2)(b), “the rest of the service” means all parts of the internet service other than the part which is an on-demand programme service.

Interpretation

- 7 In this Schedule—
- “education” and “childcare” have the same meaning as in Schedule 1 (see Part 3 of that Schedule);
 - “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).