



# Online Safety Act 2023

## 2023 CHAPTER 50

### PART 12

#### INTERPRETATION AND FINAL PROVISIONS

##### *Interpretation*

#### **236 Interpretation: general**

(1) In this Act—

“adult” means a person aged 18 or over;

“audit notice” means a notice given under paragraph 4 of Schedule 12;

“automated tool” includes bot;

“capacity”: any reference to the capacity of a provider of a regulated service is to—

(a) the financial resources of the provider, and

(b) the level of technical expertise which is available to the provider, or which it is reasonable to expect would be available to the provider given its size and financial resources;

“child” means a person under the age of 18;

“the Communications Act” means the Communications Act 2003;

“confirmation decision” means a notice given under section 132;

“content” means anything communicated by means of an internet service, whether publicly or privately, including written material or messages, oral communications, photographs, videos, visual images, music and data of any description;

“the Convention” has the meaning given by section 21(1) of the Human Rights Act 1998;

“country” includes territory;

“document” means anything in which information (in whatever form) is recorded;

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“encounter”, in relation to content, means read, view, hear or otherwise experience content;

“entity” means a body or association of persons or an organisation, regardless of whether the body, association or organisation is—

(a) formed under the law of any part of the United Kingdom or of a country outside the United Kingdom, or

(b) a legal person under the law under which it is formed;

“freedom of expression”: any reference to freedom of expression (except in sections 41(6)(f) and 78(2)(d)) is to the freedom to receive and impart ideas, opinions or information (referred to in Article 10(1) of the Convention) by means of speech, writing or images;

“identifying content” means content the function of which is to identify a user of an internet service (for example, a user name or profile picture);

“information notice” means a notice given under section 100(1) or 101(1);

“measure”: any reference to a measure includes a reference to any system or process relevant to the operation of an internet service or any step or action which may be taken by a provider of an internet service to comply with duties or requirements under this Act;

“notice” means notice in writing;

“notify” means notify in writing, and “notification” is to be construed accordingly;

“OFCOM” means the Office of Communications;

“paid-for advertisement”: an advertisement is a “paid-for advertisement” in relation to an internet service if—

(a) the provider of the service receives any consideration (monetary or non-monetary) for the advertisement (whether directly from the advertiser or indirectly from another person), and

(b) the placement of the advertisement is determined by systems or processes that are agreed between the parties entering into the contract relating to the advertisement;

“person” includes (in addition to an individual and a body of persons corporate or unincorporate) any organisation or association of persons;

“personal data” has the meaning given by section 3(2) of the Data Protection Act 2018;

“pornographic content” means content of such a nature that it is reasonable to assume that it was produced solely or principally for the purpose of sexual arousal;

“processing” has the meaning given by section 3(4) of the Data Protection Act 2018;

“provisional notice of contravention” means a notice given under section 130;

“publicly available” means available to members of the public in the United Kingdom;

“systems and/or processes”: any reference to systems and/or processes is to human or automated systems and/or processes, and accordingly includes technologies;

“taking down” (content): any reference to taking down content is to any action that results in content being removed from a user-to-user service or

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being permanently hidden so users of the service cannot encounter it (and related expressions are to be read accordingly);

“terms of service”, in relation to a user-to-user service, means all documents (whatever they are called) comprising the contract for use of the service (or of part of it) by United Kingdom users;

“user-to-user part”, in relation to a user-to-user service, means the part of the service on which content that is user-generated content in relation to the service is present.

- (2) The definitions of “encounter” and “person” in subsection (1) do not apply for the purposes of Part 10 (for the definition of “encounter” in that Part, see section 182(5)).
- (3) References in this Act to an individual with a certain characteristic include references to an individual with a combination of characteristics.
- (4) References in this Act to a kind of user-to-user service or search service (or Part 3 service) include references to user-to-user services or search services grouped together for the purposes of a risk profile prepared by OFCOM under section 98 (and references to different kinds of user-to-user services or search services (or Part 3 services) are to be read accordingly).
- (5) References in this Act to content (or content of a particular kind) present or prevalent on a user-to-user service (or on a part of it), or to the presence, incidence or prevalence of content (or content of a particular kind) on a user-to-user service (or on a part of it), do not include, in the case of a user-to-user service that includes a search engine—
  - (a) search content, or
  - (b) any other content that, following a search request, may be encountered as a result of subsequent interactions with internet services.

In this subsection “search content” and “search request” have the same meaning as in Part 3 (see section 57).

- (6) For the purposes of this Act—
  - (a) any reference to the use of or access to a service, or to content present, published or displayed on a service, is to be taken to include use of or access to the service or content on registering or on the making of a payment or on subscription;
  - (b) any reference to content that is made available or that may be accessed, encountered or shared, is to be taken to include content that is made available or that may be accessed, encountered or shared for a limited period of time only;

and references to restrictions on access to a service or to content are to be read accordingly.

- (7) For the purposes of this Act, content that is user-generated content in relation to an internet service does not cease to be such content in relation to the service when published or displayed on the service by means of—
  - (a) software or an automated tool or algorithm applied by the provider of the service 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.

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- (8) Nothing in this Act (other than section 212) affects any prohibition or restriction in relation to pornographic content, or powers in relation to such content, under another enactment or rule of law.
- (9) In this section, “user-generated content” has the meaning given by section 55 (see subsections (3) and (4) of that section).