

## SCHEDULES

### SCHEDULE 1

Section 5

#### UNAUTHORISED ASSOCIATION: PROVIDERS OF INFORMATION SOCIETY SERVICES

##### *Exceptions for mere conduits*

- 1 (1) A service provider does not breach section 3(1) by providing access to a communication network or by transmitting, in a communication network, information provided by a recipient of the service, if the service provider does not—
- (a) initiate the transmission,
  - (b) select the recipient of the transmission, or
  - (c) select or modify the information contained in the transmission.
- (2) For the purposes of sub-paragraph (1)—
- (a) providing access to a communication network, and
  - (b) transmitting information in a communication network,
- include the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.
- (3) Sub-paragraph (2) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

##### *Exception for caching*

- 2 (1) A service provider does not breach section 3(1) by storing information provided by a recipient of the service for transmission in a communication network if the first and second conditions are met.
- (2) The first condition is that the storage of the information—
- (a) is automatic, intermediate and temporary, and
  - (b) is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request.
- (3) The second condition is that the service provider—
- (a) does not modify the information,
  - (b) complies with any conditions attached to having access to the information, and
  - (c) if sub-paragraph (4) applies, promptly removes the information or disables access to it.
- (4) This sub-paragraph applies if the service provider obtains actual knowledge that—
- (a) the information at the initial source of the transmission has been removed from the network,
  - (b) access to it has been disabled, or

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*Status: This is the original version (as it was originally enacted).*

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- (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information.

#### *Exception for hosting*

- 3 (1) A service provider does not breach section 3(1) by storing information provided by a recipient of the service if—
  - (a) the service provider had no actual knowledge when the information was provided that its provision constituted a breach of section 3(1), or
  - (b) on obtaining actual knowledge that the provision of the information constituted such a breach, the service provider promptly removed the information or disabled access to it.
- (2) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

#### *Interpretation*

- 4 In this Schedule—
  - “information society services”—
    - (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and
    - (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”;
  - “recipient”, in relation to a service, means a person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible;
  - “service provider” means a person providing an information society service;
  - “the E-Commerce Directive” means Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce).