



Online Safety Act 2023

2023 CHAPTER 50

PART 11

SUPPLEMENTARY AND GENERAL

Repeals and amendments

214 Offences regarding indecent photographs of children: OFCOM defence

England and Wales

- (1) Section 1B of the Protection of Children Act 1978 (defence to offence relating to indecent photographs of children) is amended in accordance with subsections (2) and (3).
- (2) In subsection (1)—
 - (a) for “he”, in each place, substitute “the defendant”;
 - (b) for “him”, in each place, substitute “the defendant”;
 - (c) omit “or” at the end of paragraph (b);
 - (d) at the end of paragraph (c) insert “, or
 - (i) was at the time of the offence charged a member of OFCOM, employed or engaged by OFCOM, or assisting OFCOM in the exercise of any of their online safety functions (within the meaning of section 235 of the Online Safety Act 2023), and
 - (ii) made the photograph or pseudo-photograph for the purposes of OFCOM’s exercise of any of those functions.”
- (3) After subsection (2) insert—

“(3) In this section “OFCOM” means the Office of Communications.”

Status: Point in time view as at 23/08/2024.

Changes to legislation: There are currently no known outstanding effects for the Online Safety Act 2023, Section 214. (See end of Document for details)

Scotland

- (4) Section 52 of the Civic Government (Scotland) Act 1982 (indecent photographs of children) is amended in accordance with subsections (5) and (6).
- (5) After subsection (4) insert—
- “(4A) Where a person is charged with an offence under subsection (1)(a) of making an indecent photograph or pseudo-photograph of a child, it shall be a defence for the person to prove that—
- (a) at the time of the offence charged, the person was a member of OFCOM, employed or engaged by OFCOM, or assisting OFCOM in the exercise of any of their online safety functions (within the meaning of section 235 of the Online Safety Act 2023), and
 - (b) the person made the photograph or pseudo-photograph for the purposes of OFCOM’s exercise of any of those functions.”
- (6) In subsection (8), after paragraph (d) insert—
- “(e) “OFCOM” means the Office of Communications.”

Northern Ireland

- (7) Article 3A of the Protection of Children (Northern Ireland) Order 1978 ([S.I. 1978/1047 \(N.I. 17\)](#)) (defence to offence relating to indecent photographs of children) is amended in accordance with subsections (8) and (9).
- (8) In paragraph (1)—
- (a) for “he”, in each place, substitute “the defendant”;
 - (b) for “him”, in each place, substitute “the defendant”;
 - (c) omit “or” at the end of sub-paragraph (b);
 - (d) at the end of sub-paragraph (c) insert “, or
 - (d) the defendant—
 - (i) was at the time of the offence charged a member of OFCOM, employed or engaged by OFCOM, or assisting OFCOM in the exercise of any of their online safety functions (within the meaning of section 235 of the Online Safety Act 2023), and
 - (ii) made the photograph or pseudo-photograph for the purposes of OFCOM’s exercise of any of those functions.”
- (9) After paragraph (2) insert—
- “(3) In this Article “OFCOM” means the Office of Communications.”

Commencement Information

II S. 214 in force at Royal Assent, see [s. 240\(z2\)](#)

Status:

Point in time view as at 23/08/2024.

Changes to legislation:

There are currently no known outstanding effects for the Online Safety Act 2023, Section 214.