



# Online Safety Act 2023

## 2023 CHAPTER 50

### PART 3

#### PROVIDERS OF REGULATED USER-TO-USER SERVICES AND REGULATED SEARCH SERVICES: DUTIES OF CARE

### CHAPTER 7

#### INTERPRETATION OF PART 3

#### **59 “Illegal content” etc**

- (1) This section applies for the purposes of this Part.
- (2) “Illegal content” means content that amounts to a relevant offence.
- (3) Content consisting of certain words, images, speech or sounds amounts to a relevant offence if—
  - (a) the use of the words, images, speech or sounds amounts to a relevant offence,
  - (b) the possession, viewing or accessing of the content constitutes a relevant offence, or
  - (c) the publication or dissemination of the content constitutes a relevant offence.
- (4) “Relevant offence” means—
  - (a) a priority offence, or
  - (b) an offence within subsection (5).
- (5) An offence is within this subsection if—
  - (a) it is not a priority offence,
  - (b) the victim or intended victim of the offence is an individual (or individuals), and
  - (c) the offence is created by this Act or, before or after this Act is passed, by—
    - (i) another Act,

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*Status: This is the original version (as it was originally enacted).*

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- (ii) an Order in Council,
  - (iii) an order, rules or regulations made under an Act by the Secretary of State or other Minister of the Crown, including such an instrument made jointly with a devolved authority, or
  - (iv) devolved subordinate legislation made by a devolved authority with the consent of the Secretary of State or other Minister of the Crown.
- (6) But an offence is not within subsection (5) if—
- (a) the offence concerns—
    - (i) the infringement of intellectual property rights,
    - (ii) the safety or quality of goods (as opposed to what kind of goods they are), or
    - (iii) the performance of a service by a person not qualified to perform it; or
  - (b) it is an offence under the Consumer Protection from Unfair Trading Regulations 2008 ([S.I. 2008/1277](#)).
- (7) “Priority offence” means—
- (a) an offence specified in Schedule 5 (terrorism offences),
  - (b) an offence specified in Schedule 6 (offences related to child sexual exploitation and abuse), or
  - (c) an offence specified in Schedule 7 (other priority offences).
- (8) “Terrorism content” means content that amounts to an offence specified in Schedule 5.
- (9) “CSEA content” means content that amounts to an offence specified in Schedule 6.
- (10) “Priority illegal content” means—
- (a) terrorism content,
  - (b) CSEA content, and
  - (c) content that amounts to an offence specified in Schedule 7.
- (11) For the purposes of determining whether content amounts to an offence, no account is to be taken of whether or not anything done in relation to the content takes place in any part of the United Kingdom.
- (12) References in subsection (3) to conduct of particular kinds are not to be taken to prevent content generated by a bot or other automated tool from being capable of amounting to an offence (see also section 192(7) (providers’ judgements about the status of content)).
- (13) Subsection (14) applies in relation to a regulated user-to-user service (but, in the case of a combined service, does not apply in relation to the search content of the service).
- (14) References to “illegal content”, “terrorism content”, “CSEA content” and “priority illegal content” are to be read as—
- (a) limited to content within the definition in question that is regulated user-generated content in relation to the service, and
  - (b) including material which, if it were present on the service, would be content within paragraph (a) (and this section is to be read with such modifications as may be necessary for the purpose of this paragraph).
- (15) In this section—
- “devolved authority” means—

- (a) the Scottish Ministers,
  - (b) the Welsh Ministers, or
  - (c) a Northern Ireland department;
- “devolved subordinate legislation” means—
- (a) an instrument made under an Act of the Scottish Parliament,
  - (b) an instrument made under an Act or Measure of Senedd Cymru, or
  - (c) an instrument made under Northern Ireland legislation;
- “Minister of the Crown” has the meaning given by section 8 of the Ministers of the Crown Act 1975 and also includes the Commissioners for His Majesty’s Revenue and Customs;
- “offence” means an offence under the law of any part of the United Kingdom.

(16) See also section 192 (providers’ judgements about the status of content).