

Criminal Offences (Misuse of Digital Technologies and Services) (Consolidation) Bill

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TO

Consolidate offences relating to the misuse of digital devices, technologies, systems and services for the purposes of committing or preparing to commit or aiding, abetting, facilitating or concealing the commission of a crime or disposal of the proceeds of a crime; to make provision reflecting technological advancements, including the training of criminal justice personnel; to establish a duty for the Secretary of State to provide advice and guidance to the digital and telecommunications services industry aimed at reducing the misuse of digital technologies for criminal purposes; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Digital crime: definition

- (1) For the purposes of this Act, “digital crime” is any crime where digital devices, technologies, systems and services are used for purposes including, but not limited to, committing or preparing to commit a crime, aiding, abetting, facilitating or concealing the commission of a crime or disposal of the proceeds of a crime. 5
- (2) An offence of digital crime includes any offence against the person where digital devices, technologies, systems and services are used for purposes including, but not limited to, harassment, stalking, hate crime, abuse of a former partner (including the publication of revenge pornography), identity theft, cyber-theft, trolling and grooming in preparation for sexual or other forms of exploitation. 10

2 Review

- (1) The Secretary of State must undertake a review of legislation which contains powers to prosecute individuals who may have been involved in the commission of digital crime with a view to consolidating such powers in a single Act of Parliament. 15

- (2) In conducting the review under subsection (1), the Secretary of State must have regard to any enactment that he deems appropriate, including but not limited to—
- Malicious Communications Act 1988, section 1
 - Protection from Harassment Act 1997, section 2, 2a, 4,4a 5
 - Offences against the Person Act 1861, section 16, 20, 39, 47
 - Data Protection Act 1998, section 10, 13 and 55
 - Criminal Justice Act 1998, section 160
 - Regulation of Investigatory Powers Act 2000, section 30(1), (3),(5),(6), 78,(5) 10
 - Computer Misuse Act 1990, as amended by Serious Crime Act 2015 And Police and Justice Act 2006
 - Contempt of Court Act 1981
 - Human Rights Act 1998
 - Public Order Act 1986, section 4, 4a, 5, 16(b), 18 15
 - Serious Organised Crime Act 2005, section 145, 46
 - Wireless Telegraphy Act 2006, section 48
 - Criminal Justice and Courts Act 2014, section 32, 34,35,36,37
 - Protection of Children Act 1978
 - Obscene Publications Act 1959 20
 - Crime and Disorder Act 1998, section 28, 29-32
 - Criminal Justice Act 2003, section 145,146
 - Communications Act 2003, section 127,128-131
 - Data retention and Investigatory Powers Act 2014, section 4
 - Sexual Offences Amendment Act 1992, section 5 25
 - Counter Terrorism and Security Act 2015
 - Protection of Freedoms Act 2012, section 33(5) 29(6)
 - Criminal Damage Act 1971, section 2
 - Sexual Offences Act 2003 section 4, 8, 10, 62
 - Criminal Justice and Police Act 2001 section 43 30
 - Magistrates Court Act, 1980 section 127
 - Suicide Act 1961 section 2(1) as amended by Coroners and Justice Act 2009
 - Criminal Justice and Immigration Act 2008, section 63
 - Theft Act 1968, section 21
 - Criminal Law Act 1977, section 51(2). 35
- (3) It shall be a duty on the Secretary of State to determine whether the review should address any statute other than those listed in subsection (2) under which persons have been prosecuted for a crime falling under section 1 of this Act.
- (4) In conducting the review under subsection (1), the Secretary of State must consult with any person or body he deems appropriate, including but not limited to—
- (a) police forces,
 - (b) the Crown Prosecution Service,
 - (c) the judiciary, and 45
 - (d) any community organisations the Secretary of State considers relevant.

3 Draft consolidation bill: digital crime

The Secretary of State must publish a draft of a bill intended to be enacted as the consolidating Act of Parliament mentioned in section 2(1) within 12 months of the completion of the consultation process in section 2.

4 Training and education: digital crime awareness

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(1) It shall be the responsibility of the Secretary of State to facilitate and encourage—

(a) educational establishments to provide pupils and students with guidance on ways to mitigate risks to themselves in using digital devices and services, including the establishment of a telephone advisory service on such matters;

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(b) police services to improve the knowledge and skills of police officers in relation to the investigation of digital crime as defined in section 1; and

(c) police services to separately record allegations and outcomes relating to digital crime.

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(2) It shall be a duty of the Secretary of State to publish an annual report on the incidence of digital crime.

5 Providers of digital services

(1) The Secretary of State shall prepare and publish a code of conduct and standards for providers of digital services, including online services.

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(2) The Secretary of State may issue guidance on the observance of the code under subsection (1) from time to time as he sees fit.

(3) The Secretary of State may, by regulation, make provision about—

(a) service providers' responsibilities in circumstances where a service user suffers online abuse or becomes the victim of a digital crime;

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(b) the level of mandatory or automatic privacy settings or other technical protection to be provided to users aged under 18;

(c) the conduct and publication of digital safety impact assessments by providers of subscription online services;

(d) the reporting to the police of evidence of risk or threat to individual service users by service providers;

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(e) the removal of illegal content by providers from their systems; and

(f) encouraging providers to establish age-appropriate content controls.

6 Citation, commencement and extent

(1) This Act may be cited as the Misuse of Digital Technologies and Services Consolidation Act 2016.

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(2) This Act comes into force on such a day as the Secretary of State may by statutory instrument appoint, and different days may be appointed for different provisions or for different purposes.

(3) This Act extends to England, Wales and Northern Ireland.

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To consolidate offences relating to the misuse of digital devices, technologies, systems and services for the purposes of committing or preparing to commit or aiding, abetting, facilitating or concealing the commission of a crime or disposal of the proceeds of a crime; to make provision reflecting technological advancements, including the training of criminal justice personnel; to establish a duty for the Secretary of State to provide advice and guidance to the digital and telecommunications services industry aimed at reducing the misuse of digital technologies for criminal purposes; and for connected purposes.

*Ordered to be brought in by Liz Saville Roberts,
Mr Graham Allen, Sir David Amess,
Sir Edward Garnier, Mrs Cheryl Gillan,
Mr David Lammy, Tim Loughton,
Ms Margaret Ritchie, Mr Barry Sheerman,
Hywel Williams, Corri Wilson and
Dr Sarah Wollaston.*

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to be Printed, 9 March 2016.*

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