

Online Forums Bill

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TO

Make administrators and moderators of certain online forums responsible for content published on those forums; to require such administrators and moderators to remove certain content; to require platforms to publish information about such forums; 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 Criminal offence of hosting illegal information on an online forum

- (1) A person “P” commits an offence if—
- (a) P is a qualifying administrator of a qualifying online forum,
 - (b) that online forum enables the viewing of illegal content by members of the forum, 5
 - (c) P does not remove that illegal content, and
 - (d) subsection (2) does not apply.
- (2) P is not guilty of the offence if—
- (a) P—
 - (i) was not notified that the illegal content can be viewed by members of the forum, and 10
 - (ii) could not reasonably have been aware that it could be so viewed, or
 - (b) the prescribed notice period had not expired prior to the removal of the content. 15
- (3) The prescribed notice period is a length of time from P—
- (a) being notified that the illegal content can be viewed by members of the forum, or
 - (b) becoming aware that it could be so viewed.
- (4) The Secretary of State must by regulations prescribe for the purposes of this Act— 20
- (a) the definition of a qualifying administrator (subject to section 4(1)(a)),

- (b) the definition of a qualifying online forum (subject to section 4(1)(e)), including by setting a minimum number of forum members,
 - (c) what constitutes removal of illegal content,
 - (d) the prescribed notice period,
 - (e) how qualifying administrators may be notified that illegal content can be viewed by members of the forum, and 5
 - (f) the persons who may make such notifications.
- (5) A person guilty of an offence under this section shall be liable –
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine, or to both; 10
 - (b) on conviction on indictment, to imprisonment for a term not exceeding seven years, or to a fine, or both.
- 2 Joint civil liability for illegal information hosted on an online forum**
- (1) This section applies in relation to the determination by a court of damages relating to illegal content that can be viewed by other members of a qualifying online forum. 15
- (2) An administrator may be held jointly liable with the person who posted the illegal content if, in the judgment of the court, the qualifying administrator –
- (a) did not take reasonable steps to prevent the posting of the illegal content on the qualifying online forum, 20
 - (b) was negligent in not being aware that illegal content could be viewed by members of the qualifying online forum, or
 - (c) did not take reasonable steps on becoming aware of that illegal content could be viewed by members of the forum to remove it from the qualifying online forum. 25
- (3) The Secretary of State may by regulations place restrictions on the liability of administrators.
- 3 Requirement for platforms to publish information about online forums**
- (1) A platform must publish on the internet information regarding each qualifying online forum. 30
- (2) The Secretary of State may by regulations prescribe requirements for that information including –
- (a) its content (subject to subsections (3) and (4));
 - (b) the form of its publication;
 - (c) a time period between the creation of a qualifying online forum and the application of the requirement for information about it to be published. 35
- (3) The information must include –
- (a) the name of the qualifying online forum, and
 - (b) the number of members of the qualifying online forum on a date or during a period prescribed in regulations under subsection (2). 40
- (4) The Secretary of State may not require platforms to publish the names of members of a qualifying online forum.
- (5) But the Secretary of State may require platforms to provide any information about qualifying online forums to a law enforcement authority.

- (6) A person commits an offence if that person is a platform and fails to –
- (a) publish information under subsection (1), or
 - (b) provide information under subsection (5).
- (7) A person guilty of an offence under this section shall be liable shall be liable on summary conviction to imprisonment for a term not exceeding 12 months, or to a fine, or to both. 5

4 Interpretation

- (1) In this Act –
- (a) “administrator” means a person who can –
 - (i) edit or delete content on an online forum posted by another person, or 10
 - (ii) permit forum members to post content on an online forum;
 - (b) “content” means information in the form of words, images, video or audio;
 - (c) “forum member” means a person who is permitted to view or post content on an online forum; 15
 - (d) “illegal content” means content which a reasonable person considers involves a breach of the criminal law of England and Wales;
 - (e) “online forum” means a website which allows forum members to post content; 20
 - (f) “platform” means the legal owner of an online forum;
 - (g) to “post” means to place on an online forum in a form that can be seen by forum members or others;
 - (h) “law enforcement agency” means a police force or the National Crime Agency; 25
 - (i) “police force” has the same meaning as in section 60 of the Investigatory Powers Act 2016.
- (2) The Secretary of State may amend paragraphs (a) to (g) of subsection (1) by regulations.

5 Regulations 30

- (1) A power to make regulations in this Act –
- (a) is exercisable by statutory instrument;
 - (b) includes power to make different provision for different purposes;
 - (c) includes power to make supplementary, incidental, consequential, transitional, transitory and saving provision. 35
- (2) A statutory instrument containing regulations under this Act (other than section 6) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

6 Extent, commencement and short title

- (1) This Act extends to England and Wales. 40
- (2) This section and section 5 comes into force on the day on which this Act is passed.

- (3) The remaining provisions of this Act come into force on such day as the Secretary of State may by regulations appoint.
- (4) This Act may be cited as the Online Forums Act 2018.

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