

Online Safety Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE
[Supplementary to the Marshalled List]

Amendment
No.

Clause 6

LORD PARKINSON OF WHITLEY BAY

12A★ Page 5, line 11, at end insert “(2) to (8)”

Member’s explanatory statement

This amendment is consequential on the amendments in the Minister’s name to clause 9 below (because the new duty to summarise illegal content risk assessments in the terms of service is only imposed on providers of Category 1 services).

12B★ Page 5, line 16, at end insert “(2) to (6)”

Member’s explanatory statement

This amendment is consequential on the amendments in the Minister’s name to clause 19 below (because the new duty to supply records of risk assessments to OFCOM is only imposed on providers of Category 1 services).

12C★ Page 5, line 23, at end insert “(2) to (10)”

Member’s explanatory statement

This amendment is consequential on the amendments in the Minister’s name to clause 11 below (because the new duty to summarise children’s risk assessments in the terms of service is only imposed on providers of Category 1 services).

12D★ Page 5, line 25, at end insert —

“(za) the duty about illegal content risk assessments set out in section 9(8A),
(zb) the duty about children’s risk assessments set out in section 11(10A),”

Member’s explanatory statement

This amendment ensures that the new duties set out in the amendments in the Minister’s name to clauses 9 and 11 below (duties to summarise risk assessments in the terms of service) are imposed on providers of Category 1 services only.

- 12E★** Page 5, line 32, at end insert “, and
(f) the duty about record-keeping set out in section 19(8A).”

Member’s explanatory statement

This amendment ensures that the new duty set out in the amendment in the Minister’s name to clause 19 below (duty to supply records of risk assessments to OFCOM) is imposed on providers of Category 1 services only.

- 13A★** Page 5, line 35, after “service” insert “is not a Category 2A service and”

Member’s explanatory statement

This technical amendment ensures that the duties imposed on providers of combined services in relation to the search engine are correct following the changes to clause 20 arising from the new duties in clauses 23, 25 and 29 which are imposed on providers of Category 2A services only.

- 13B★** Page 5, line 37, after “service” insert “is not a Category 2A service and”

Member’s explanatory statement

This technical amendment ensures that the duties imposed on providers of combined services in relation to the search engine are correct following the changes to clause 20 arising from the new duties in clauses 23, 25 and 29 which are imposed on providers of Category 2A services only.

- 13C★** Page 5, line 38, at end insert –

- “(c) if the service is a Category 2A service not likely to be accessed by children, the duties set out in Chapter 3 referred to in section 20(2) and (3A);
- (d) if the service is a Category 2A service likely to be accessed by children, the duties set out in Chapter 3 referred to in section 20(2), (3) and (3A).”

Member’s explanatory statement

This amendment ensures that the new duties set out in the amendments in the Minister’s name to clauses 23, 25 and 29 below (duties to summarise risk assessments in a publicly available statement and to supply records of risk assessments to OFCOM) are imposed on providers of combined services that are Category 2A services in relation to the search engine.

Clause 8

LORD PARKINSON OF WHITLEY BAY

- 16A★** Page 7, line 23, after “19(2)” insert “and (8A)”

Member’s explanatory statement

This amendment inserts a signpost to the new duty in clause 19 about supplying records of risk assessments to OFCOM.

Clause 9

LORD PARKINSON OF WHITLEY BAY

- 16B★** Page 7, line 27, leave out “all”

Member's explanatory statement

This is a technical amendment needed because the new duty to summarise illegal content risk assessments in the terms of service (see the amendment in the Minister's name inserting new subsection (8A) below) is imposed only on providers of Category 1 services.

16C★ Page 7, line 27, at end insert “(as indicated by the headings).”

Member's explanatory statement

This amendment provides clarification because the new duty to summarise illegal content risk assessments in the terms of service (see the amendment inserting new subsection (8A) below) is imposed only on providers of Category 1 services.

18A★ Page 8, line 23, at end insert —

“(8A) A duty to summarise in the terms of service the findings of the most recent illegal content risk assessment of a service (including as to levels of risk and as to nature, and severity, of potential harm to individuals).”

Member's explanatory statement

This amendment requires providers of Category 1 services to summarise (in their terms of service) the findings of their latest risk assessment regarding illegal content and activity. The limitation to Category 1 services is achieved by an amendment in the name of the Minister to clause 6.

Clause 10

LORD PARKINSON OF WHITLEY BAY

21A★ Page 10, line 1, after “19(2)” insert “and (8A)”

Member's explanatory statement

This amendment inserts a signpost to the new duty in clause 19 about supplying records of risk assessments to OFCOM.

Clause 11

LORD PARKINSON OF WHITLEY BAY

22A★ Page 10, line 6, at end insert “(as indicated by the headings).”

Member's explanatory statement

This amendment provides clarification because the new duty to summarise children's risk assessments in the terms of service (see the amendment in the Minister's name inserting new subsection (10A) below) is imposed only on providers of Category 1 services.

27A★ Page 11, line 19, at end insert —

“(10A) A duty to summarise in the terms of service the findings of the most recent children's risk assessment of a service (including as to levels of risk and as to nature, and severity, of potential harm to children).”

Member's explanatory statement

This amendment requires providers of Category 1 services to summarise (in their terms of service) the findings of their latest children's risk assessment. The limitation to Category 1 services is achieved by an amendment in the name of the Minister to clause 6.

Clause 12

LORD PARKINSON OF WHITLEY BAY

- 43A★** Page 13, line 20, leave out from “who” to end of line 21 and insert “—
 (a) is an individual, whether in the United Kingdom or outside it, and
 (b) has not verified their identity to the provider of a service;”

Member's explanatory statement

This amendment makes it clear that the term “non-verified user” in clause 12 (user empowerment duties) refers to individuals and includes users outside the United Kingdom.

Clause 13

LORD PARKINSON OF WHITLEY BAY

- 50A★** Page 14, line 8, at end insert —
 “(5A) In determining what is proportionate for the purposes of subsection (2), the size and capacity of the provider of a service, in particular, is relevant.”

Member's explanatory statement

This amendment indicates that the size and capacity of a provider is important in construing the reference to “proportionate systems and processes” in clause 13 (duties to protect content of democratic importance).

Clause 14

LORD PARKINSON OF WHITLEY BAY

- 50B★** Page 15, line 30, leave out “subsection (2)(a)” and insert “this section”

Member's explanatory statement

This is a technical amendment to make it clear that clause 14(9), which sets out circumstances which do not count as a provider “taking action” in relation to news publisher content, applies for the purposes of the whole clause.

- 50C★** Page 15, line 44, leave out subsection (11)

Member's explanatory statement

This amendment omits a provision about OFCOM's guidance under clause 171, as that provision is now to be made in clause 171 itself.

- 50D★** Page 16, line 3, leave out paragraph (b)

Member's explanatory statement

This amendment omits the definition of “taking action” in relation to content, as that is now dealt with by the amendment in the Minister's name below.

50E★ Page 16, line 10, at end insert –

“(13A) In this section references to “taking action” in relation to content are to –

- (a) taking down content,
- (b) restricting users’ access to content, or
- (c) adding warning labels to content, except warning labels normally encountered only by child users,

and also include references to taking any other action in relation to content on the grounds that it is content of a kind which is the subject of a relevant term of service (but not otherwise).

(13B) A “relevant term of service” means a term of service which indicates to users (in whatever words) that the presence of a particular kind of content, from the time it is generated, uploaded or shared on the service, is not tolerated on the service or is tolerated but liable to result in the provider treating it in a way that makes it less likely that other users will encounter it.”

Member’s explanatory statement

This amendment provides a revised definition of what it means to “take action” in relation to news publisher content, to ensure that the clause only applies to actions other than those set out in subsection (13A)(a), (b) or (c) in the circumstances set out in subsection (13B).

Clause 15

LORD PARKINSON OF WHITLEY BAY

50F★ Page 17, line 14, at end insert –

“(8A) In determining what is proportionate for the purposes of subsection (2), the size and capacity of the provider of a service, in particular, is relevant.”

Member’s explanatory statement

This amendment indicates that the size and capacity of a provider is important in construing the reference to “proportionate systems and processes” in clause 15 (duties to protect journalistic content).

Clause 19

LORD PARKINSON OF WHITLEY BAY

64A★ Page 21, line 36, leave out “all”

Member’s explanatory statement

This is a technical amendment needed because the new duty to supply records of risk assessments to OFCOM (see the amendment in the Minister’s name inserting new subsection (8A) below) is imposed only on providers of Category 1 services.

64B★ Page 21, line 36, at end insert “(as indicated by the headings).”

Member’s explanatory statement

This amendment provides clarification because the new duty to supply records of risk assessments to OFCOM (see the amendment in the Minister’s name inserting new subsection (8A) below) is imposed only on providers of Category 1 services.

64C★ Page 21, line 38, after “of” insert “all aspects of”

Member’s explanatory statement

This amendment concerns a duty imposed on providers to keep records of risk assessments. The added words make it clear that full records must be made.

64D★ Page 21, line 38, at end insert “, including details about how the assessment was carried out and its findings.”

Member’s explanatory statement

This amendment concerns a duty imposed on providers to keep records of risk assessments. The added words make it clear that full records must be made.

65A★ Page 22, line 26, at end insert –

“(8A) As soon as reasonably practicable after making a record of a risk assessment as required by subsection (2), or revising such a record, a duty to supply OFCOM with a copy of the record (in full).”

Member’s explanatory statement

This amendment requires providers of Category 1 services to supply copies of their records of risk assessments to OFCOM. The limitation to Category 1 services is achieved by an amendment in the name of the Minister to clause 6.

Clause 20

LORD PARKINSON OF WHITLEY BAY

65B★ Page 23, line 5, leave out “and (3)” and insert “to (3A)”

Member’s explanatory statement

This technical amendment is consequential on the other changes to clause 20 (arising from the new duties in clauses 23, 25 and 29 which are imposed on providers of Category 2A services only - see the amendments in the Minister’s name to those clauses below).

65C★ Page 23, line 10, at end insert “(2) to (8)”

Member’s explanatory statement

This amendment is consequential on the amendments in the Minister’s name to clause 23 below (because the new duty to summarise illegal content risk assessments in a publicly available statement is only imposed on providers of Category 2A services).

65D★ Page 23, line 15, at end insert “(2) to (6)”

Member’s explanatory statement

This amendment is consequential on the amendments in the Minister’s name to clause 29 below (because the new duty to supply records of risk assessments to OFCOM is only imposed on providers of Category 2A services).

65E★ Page 23, line 15, at end insert –

“(2A) Additional duties must be complied with by providers of particular kinds of regulated search services, as follows.”

Member's explanatory statement

This technical amendment is consequential on the other changes to clause 20 (arising from the new duties in clauses 23, 25 and 29 which are imposed on providers of Category 2A services only - see the amendments in the Minister's name to those clauses below).

66A★ Page 23, line 16, leave out "In addition,"

Member's explanatory statement

This technical amendment is consequential on the other changes to clause 20 (arising from the new duties in clauses 23, 25 and 29 which are imposed on providers of Category 2A services only - see the amendments in the Minister's name to those clauses below).

66B★ Page 23, line 20, at end insert "(2) to (8)"

Member's explanatory statement

This amendment is consequential on the amendments in the Minister's name to clause 25 below (because the new duty to summarise children's risk assessments in a publicly available statement is only imposed on providers of Category 2A services).

66C★ Page 23, line 20, at end insert –

"(3A) All providers of regulated search services that are Category 2A services must comply with the following duties in relation to each such service which they provide –

- (a) the duty about illegal content risk assessments set out in section 23(8A),
- (b) the duty about children's risk assessments set out in section 25(8A), and
- (c) the duty about record-keeping set out in section 29(8A)."

Member's explanatory statement

This amendment ensures that the new duties set out in the amendments in the Minister's name to clauses 23, 25 and 29 below (duties to summarise risk assessments in a publicly available statement and to supply records of risk assessments to OFCOM) are imposed on providers of Category 2A services only.

66D★ Page 23, line 21, at end insert –

"(5) For the meaning of "Category 2A service", see section 86 (register of categories of services)."

Member's explanatory statement

This amendment inserts a signpost to the meaning of "Category 2A service".

Clause 22

LORD PARKINSON OF WHITLEY BAY

66E★ Page 24, line 38, after "29(2)" insert "and (8A)"

Member's explanatory statement

This amendment inserts a signpost to the new duty in clause 29 about supplying records of risk assessments to OFCOM.

Clause 23

LORD PARKINSON OF WHITLEY BAY

66F★ Page 24, line 42, leave out “all”

Member’s explanatory statement

This is a technical amendment needed because the new duty to summarise illegal content risk assessments in a publicly available statement (see the amendment in the Minister’s name inserting new subsection (8A) below) is imposed only on providers of Category 2A services.

66G★ Page 24, line 42, at end insert “(as indicated by the headings).”

Member’s explanatory statement

This amendment provides clarification because the new duty to summarise illegal content risk assessments in a publicly available statement (see the amendment in the Minister’s name inserting new subsection (8A) below) is imposed only on providers of Category 2A services.

72A★ Page 25, line 31, at end insert –

“(8A) A duty to summarise in a publicly available statement the findings of the most recent illegal content risk assessment of a service (including as to levels of risk and as to nature, and severity, of potential harm to individuals).”

Member’s explanatory statement

This amendment requires providers of Category 2A services to summarise (in a publicly available statement) the findings of their latest risk assessment regarding illegal content. The limitation to Category 2A services is achieved by an amendment in the name of the Minister to clause 20.

Clause 24

LORD PARKINSON OF WHITLEY BAY

75A★ Page 26, line 45, after “29(2)” insert “and (8A)”

Member’s explanatory statement

This amendment inserts a signpost to the new duty in clause 29 about supplying records of risk assessments to OFCOM.

Clause 25

LORD PARKINSON OF WHITLEY BAY

75B★ Page 27, line 4, at end insert “(as indicated by the headings).”

Member’s explanatory statement

This amendment provides clarification because the new duty to summarise children’s risk assessments in a publicly available statement (see the amendment in the Minister’s name inserting new subsection (8A) below) is imposed only on providers of Category 2A services.

81A★ Page 27, line 46, at end insert –

“(8A) A duty to summarise in a publicly available statement the findings of the most recent children’s risk assessment of a service (including as to levels of risk and as to nature, and severity, of potential harm to children).”

Member’s explanatory statement

This amendment requires providers of Category 2A services to summarise (in a publicly available statement) the findings of their latest children’s risk assessment. The limitation to Category 2A services is achieved by an amendment in the name of the Minister to clause 20.

Clause 29

LORD PARKINSON OF WHITLEY BAY

88A★ Page 31, line 4, leave out “all”

Member’s explanatory statement

This is a technical amendment needed because the new duty to supply records of risk assessments to OFCOM (see the amendment in the Minister’s name inserting new subsection (8A) below) is imposed only on providers of Category 2A services.

88B★ Page 31, line 4, at end insert “(as indicated by the headings).”

Member’s explanatory statement

This amendment provides clarification because the new duty to supply records of risk assessments to OFCOM (see the amendment in the Minister’s name inserting new subsection (8A) below) is imposed only on providers of Category 2A services.

88C★ Page 31, line 6, after “of” insert “all aspects of”

Member’s explanatory statement

This amendment concerns a duty imposed on providers to keep records of risk assessments. The added words make it clear that full records must be made.

88D★ Page 31, line 6, at end insert “, including details about how the assessment was carried out and its findings.”

Member’s explanatory statement

This amendment concerns a duty imposed on providers to keep records of risk assessments. The added words make it clear that full records must be made.

90A★ Page 31, line 37, at end insert –

“(8A) As soon as reasonably practicable after making a record of a risk assessment as required by subsection (2), or revising such a record, a duty to supply OFCOM with a copy of the record (in full).”

Member’s explanatory statement

This amendment requires providers of Category 2A services to supply copies of their records of risk assessments to OFCOM. The limitation to Category 2A services is achieved by an amendment in the name of the Minister to clause 20.

Clause 36

LORD PARKINSON OF WHITLEY BAY

- 98A★** Page 37, line 29, at end insert –
- “(ga) the Children’s Commissioner,
 - (gb) the Commissioner for Victims and Witnesses,
 - (gc) the Domestic Abuse Commissioner,”

Member’s explanatory statement

This amendment provides that in preparing a draft code of practice or amendments of a code of practice under clause 36, OFCOM must also consult the Children’s Commissioner, the Commissioner for Victims and Witnesses and the Domestic Abuse Commissioner.

Clause 47

LORD PARKINSON OF WHITLEY BAY

- 122A★** Page 46, line 10, after “29” insert “, except the duty set out in subsection (8A) of those sections”

Member’s explanatory statement

This amendment ensures that OFCOM need not produce guidance about the new duties in clauses 19 and 29 to supply records of risk assessments to OFCOM.

Clause 50

LORD PARKINSON OF WHITLEY BAY

- 126A★** Page 48, line 31, at end insert “, and
(iii) is not a sanctioned entity (see subsection (3A)).”

Member’s explanatory statement

The effect of this amendment, combined with the next amendment in the Minister’s name, is that any entity which is designated for the purposes of sanctions regulations is not a “recognised news publisher” under this Bill, with the result that the Bill’s protections which relate to “news publisher content” don’t apply.

- 127A★** Page 49, line 9, at end insert –
- “(3A) A “sanctioned entity” is an entity which –
- (a) is designated by name under a power contained in regulations under section 1 of the Sanctions and Anti-Money Laundering Act 2018 that authorises the Secretary of State or the Treasury to designate persons for the purposes of the regulations or of any provisions of the regulations, or
 - (b) is a designated person under any provision included in such regulations by virtue of section 13 of that Act (persons named by or under UN Security Council Resolutions).”

Member's explanatory statement

The effect of this amendment, combined with the preceding amendment in the Minister's name, is that any entity which is designated for the purposes of sanctions regulations is not a "recognised news publisher" under this Bill, with the result that the Bill's protections which relate to "news publisher content" don't apply.

Clause 52

LORD PARKINSON OF WHITLEY BAY

- 127B★** Page 50, line 23, after second "the" insert "voluntary"

Member's explanatory statement

This amendment and the next amendment in the Minister's name ensure that restrictions on a user's access to content resulting from the user voluntarily activating any feature of a service do not count as restrictions on users' access for the purposes of Part 3 of the Bill.

- 127C★** Page 50, line 25, leave out from "service" to ", or" in line 26 and insert "(for example, features, functionalities or settings included in compliance with the duty set out in section 12(2) or (6) (user empowerment))"

Member's explanatory statement

This amendment and the previous amendment in the Minister's name ensure that restrictions on a user's access to content resulting from the user voluntarily activating any feature of a service do not count as restrictions on users' access for the purposes of Part 3 of the Bill.

Schedule 7

LORD PARKINSON OF WHITLEY BAY

- 135A★** Page 203, line 14, at end insert –
 "10A An offence under section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship)."

Member's explanatory statement

This amendment adds the specified offence to Schedule 7, with the effect that content amounting to that offence counts as priority illegal content.

- 136A★** Page 204, line 31, leave out from "under" to end of line 32 and insert "any of the following provisions of the Immigration Act 1971 –
 (a) section 24(A1), (B1), (C1) or (D1) (illegal entry and similar offences);
 (b) section 25 (assisting unlawful immigration)."

Member's explanatory statement

This amendment adds the specified offences under section 24 of the Immigration Act to Schedule 7, with the effect that (amongst other things) content amounting to encouraging those offences (as per the Serious Crime Act 2007) counts as priority illegal content.

- 136B★** Page 204, line 32, at end insert –
 "22A An offence under section 2 of the Modern Slavery Act 2015 (human trafficking)."

Schedule 7 - continued

- 22B An offence under section 1 of the Human Trafficking and Exploitation (Scotland) Act 2015 (asp 12) (human trafficking).
- 22C An offence under section 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.)) (human trafficking).”

Member’s explanatory statement

This amendment adds the specified offences to Schedule 7, with the effect that content amounting to those offences counts as priority illegal content.

136C★ Page 205, line 36, at end insert –

“32A An offence under section 13 of the National Security Act 2023 (foreign interference).”

Member’s explanatory statement

This amendment adds the specified offence to Schedule 7, with the effect that content amounting to that offence counts as priority illegal content.

Clause 79

LORD PARKINSON OF WHITLEY BAY

186A★ Page 71, line 20, leave out paragraph (b)

Member’s explanatory statement

This amendment omits a provision about recouping OFCOM’s preparatory costs via fees under Part 6 of the Bill, because it is now intended to recoup all preparatory costs incurred before the fees regime is in operation via the charging of additional fees under Schedule 10 (see also the amendment to Schedule 10 in the Minister’s name).

Clause 80

LORD PARKINSON OF WHITLEY BAY

186B★ Page 71, line 26, leave out from “incurred” to end of line 27 and insert “before the first day of the initial charging year.”

Member’s explanatory statement

This amendment is to the clause introducing Schedule 10 (recovery of OFCOM’s initial costs). The amendment reflects the change to Schedule 10 proposed by the amendment of that Schedule in the Minister’s name.

Schedule 10

LORD PARKINSON OF WHITLEY BAY

186C★ Page 212, line 37, leave out from “before” to end of line 39 and insert “the first day of the initial charging year on –
 (a) preparations for the exercise of their online safety functions, or
 (b) the exercise of their online safety functions;”

Member's explanatory statement

Schedule 10 enables OFCOM to charge additional fees to recover certain online safety costs which are met by the retention of receipts under the Wireless Telegraphy Act 2006. This amendment extends the Schedule 10 regime to cover all costs incurred before the main fees regime under Part 6 of the Bill is in operation (as opposed to only covering preparatory costs incurred before the commencement of clause 79).

After Clause 97

LORD PARKINSON OF WHITLEY BAY

200A★ Insert the following new Clause—**“Amendment of Criminal Justice and Police Act 2001**

- (1) The Criminal Justice and Police Act 2001 is amended as follows.
- (2) In section 57(1) (retention of seized items), after paragraph (t) insert—
 - “(u) paragraph 8 of Schedule 12 to the Online Safety Act 2023.”
- (3) In section 65 (meaning of “legal privilege”)—
 - (a) after subsection (8B) insert—
 - “(8C) An item which is, or is comprised in, property which has been seized in exercise or purported exercise of the power of seizure conferred by paragraph 7(f), (j) or (k) of Schedule 12 to the Online Safety Act 2023 is to be taken for the purposes of this Part to be an item subject to legal privilege if, and only if, the seizure of that item was in contravention of paragraph 17(3) of that Schedule (privileged information or documents).”;
 - (b) in subsection (9)—
 - (i) at the end of paragraph (d) omit “or”;
 - (ii) at the end of paragraph (e) insert “or”;
 - (iii) before the closing words insert—
 - “(g) paragraph 7(f), (j) or (k) of Schedule 12 to the Online Safety Act 2023.”
- (4) In Part 1 of Schedule 1 (powers of seizure to which section 50 of the Act applies), after paragraph 73U insert—

“Online Safety Act 2023

73V Each of the powers of seizure conferred by paragraph 7(f), (j) and (k) of Schedule 12 to the Online Safety Act 2023.””

Member's explanatory statement

This amendment has the effect of providing that section 50 of the Criminal Justice and Police Act 2001 (additional powers of seizure from premises) applies to the powers of seizure under paragraph 7(f), (j) and (k) of Schedule 12 to the Bill; and makes related amendments to that Act.

Clause 110

LORD PARKINSON OF WHITLEY BAY

205A★ Page 95, line 11, leave out “relating to terrorism content present on a service” and insert “that relates to a user-to-user service (or to the user-to-user part of a combined service) and requires the use of technology in relation to terrorism content”

Member's explanatory statement

This amendment makes it clear that the requirement in clause 110(7) regarding which content is communicated publicly is relevant to user-to-user services and may apply in both the cases mentioned in clause 110(2)(a)(i) and (ii).

After Clause 125

LORD PARKINSON OF WHITLEY BAY

218A★ Insert the following new Clause—

“Confirmation decisions: offence

- (1) A person to whom a confirmation decision is given commits an offence if, without reasonable excuse, the person fails to comply with a requirement imposed by the decision which—
 - (a) is of a kind described in section 121(1), and
 - (b) relates (whether or not exclusively) to a children's online safety duty.
- (2) A “children's online safety duty” means a duty set out in—
 - (a) section 11(3)(a),
 - (b) section 11(3)(b),
 - (c) section 72(2), or
 - (d) section 72(3).
- (3) A person who commits an offence under this section is liable—
 - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);
 - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
 - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
 - (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).”

Member's explanatory statement

This amendment creates a new offence of failure to comply with requirements of a confirmation decision that relate to specified duties to protect children's online safety.

After Clause 149

BARONESS NEWLOVE
LORD RUSSELL OF LIVERPOOL
LORD STEVENSON OF BALMACARA
BARONESS KIDRON

250A★ Insert the following new Clause—

“Independent appeals system

- (1) An appeals system is to be established (“the Independent Appeals Process”) to provide for a procedure for the resolution of any dispute between a user of a regulated service and the regulated service provider, in the case that any feature of one or more regulated services, or any conduct of one or more providers of such services, or any combination of such features and such conduct, is, appears to be, or presents a material risk of—
 - (a) causing users significant or potential significant harm;
 - (b) contravening users' rights, as set out in the Human Rights Act 1998, including freedom of expression;
 - (c) in the case of children, contravening a child’s rights as set out in the United Nations Convention on the Rights of the Child and general comment 25 on children’s rights by the Committee on the Rights of the Child in relation to the digital environment;
 - (d) otherwise having the effect of impairing the physical, emotional, moral or psychological development of children.
- (2) The dispute resolution provided by the Independent Appeals Process must—
 - (a) be easy to use and must take into account the needs of vulnerable users and children;
 - (b) be transparent;
 - (c) be fair, taking into account the rights and legitimate interests of users and not discriminating between different users;
 - (d) evolve to match changes in technology;
 - (e) be timely.
- (3) The provision of or use of this procedure must not affect the ability of a person using the service to bring a claim in civil proceedings.”

Member’s explanatory statement

This amendment would establish an independent appeals system to provide impartial out of court resolutions for individual users of regulated services. It lists the types of risks of harm the system would consider as part of the complaints, and includes principles to which the resolution services of the system must have regard.

250B★ Insert the following new Clause—

“OFCOM’s guidance about individual complaints

- (1) OFCOM must produce guidance about individual complaints under section (*Independent appeals system*) which must include—
 - (a) the criteria specified in subsection (2) of section (*Independent appeals system*);

After Clause 149 - continued

- (b) priority for complaints regarding children;
 - (c) recognition that adults, including those who are vulnerable, encounter online harm;
 - (d) priority for complaints that may result in offline harm;
 - (e) a clear statement of the limits and priorities of the Independent Appeals Process;
 - (f) commitment to share the insight with OFCOM for their market research,
 - (g) procedural matters relating to such complaints, including the expectation that the internal dispute mechanism has been accessed and exhausted or found to be inadequate,
 - (h) an Independent Appeals Charter, detailing principles and expectations of the service, and
 - (i) any other aspects of such complaints that OFCOM consider it appropriate to include.
- (2) OFCOM must publish the guidance (and any revised or replacement guidance).”

Member’s explanatory statement

This new Clause would place a duty on OFCOM to produce guidance on the individual complaints process outlined in the other new Clause proposed by Baroness Newlove after Clause 149.

Clause 160**LORD CLEMENT-JONES**

- 264A★** Page 138, line 10, at end insert “including (but not necessarily) by making use of a stolen identity, credit card or national insurance number,”

Member’s explanatory statement

This amendment, together with the amendment to page 138, line 12 to which Lord Clement-Jones has added his name, seeks to probe the creation of a specific criminal offence of identity theft.

LORD PARKINSON OF WHITLEY BAY

- 267A★** Page 138, line 25, leave out from “liable” to end of line 27 and insert “–
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the maximum term for summary offences or a fine (or both);
 - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).”

Member’s explanatory statement

This amendment sets out the penalties for the false communications offence in Northern Ireland, since the offence is now to extend to Northern Ireland as well as England and Wales.

Clause 162

LORD PARKINSON OF WHITLEY BAY

267B★ Page 139, line 38, after “conviction” insert “in England and Wales”***Member’s explanatory statement***

This amendment adds a reference to England and Wales to differentiate the provision from the similar provision applying to Northern Ireland (see the next amendment in the Minister’s name).

267C★ Page 139, line 39, at end insert –

“(aa) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);”

Member’s explanatory statement

This amendment sets out the penalties for the threatening communications offence in Northern Ireland, since the offence is now to extend to Northern Ireland as well as England and Wales.

Clause 164

LORD PARKINSON OF WHITLEY BAY

268A★ Page 142, line 30, leave out subsection (14)***Member’s explanatory statement***

This is a technical amendment about extent - the extent of the epilepsy trolling offence in clause 164 is now dealt with by amendments of clause 210 (see the amendments of that clause in the Minister’s name).

Clause 165

LORD PARKINSON OF WHITLEY BAY

268B★ Page 142, line 32, leave out subsections (1) and (2)***Member’s explanatory statement***

This amendment omits provisions which relate to offences that extended to England and Wales only, as the offences in question are now to extend to Northern Ireland as well.

268C★ Page 142, line 38, leave out “Section 164(1) applies” and insert “Sections 160(1), 162(1) and 164(1) apply”***Member’s explanatory statement***

This amendment, regarding extra-territorial application, is needed because of the extension of the offences in clauses 160 and 162 to Northern Ireland.

268D★ Page 143, line 1, leave out subsection (5)***Member’s explanatory statement***

This amendment omits a provision which relates to offences that extended to England and Wales only, as the offences in question are now to extend to Northern Ireland as well.

268E★ Page 143, line 4, after “section” insert “160, 162 or”

Member’s explanatory statement

This amendment, regarding extra-territorial jurisdiction, is needed because of the extension of the offences in clauses 160 and 162 to Northern Ireland.

268F★ Page 143, line 8, leave out subsection (7)

Member’s explanatory statement

This is a technical amendment about extent - the extent of clause 165 is now dealt with by amendments of clause 210 (see the amendments of that clause in the Minister’s name).

Clause 166

LORD PARKINSON OF WHITLEY BAY

268G★ Page 143, line 23, leave out subsection (3)

Member’s explanatory statement

This is a technical amendment about extent - the extent of clause 166 is now dealt with by amendments of clause 210 (see the amendments of that clause in the Minister’s name).

Clause 168

LORD PARKINSON OF WHITLEY BAY

271A★ Page 144, line 17, after “Wales” insert “and Northern Ireland”

Member’s explanatory statement

This amendment ensures that section 127(2)(a) and (b) of the Communications Act 2003 is repealed for Northern Ireland as well as England and Wales (because the false communications offence in clause 160 is now to extend to Northern Ireland as well).

271B★ Page 144, line 22, at end insert –

- “(3) The following provisions of the Malicious Communications (Northern Ireland) Order 1988 (S.I. 1988/1849 (N.I. 18)) are repealed –
- (a) Article 3(1)(a)(ii),
 - (b) Article 3(1)(a)(iii), and
 - (c) Article 3(2).”

Member’s explanatory statement

This amendment amends the specified Northern Ireland legislation in consequence of the extension of the false and threatening communications offences to Northern Ireland.

Schedule 14

LORD PARKINSON OF WHITLEY BAY

271C★ Page 231, line 33, leave out from “2003” to “after” in line 34 and insert “, in the list of offences for England and Wales,”

Member's explanatory statement

This amendment makes it clearer that changes to the Sexual Offences Act 2003 in paragraph 2 of Schedule 14 to the Bill relate to England and Wales only (since the next amendment in the Minister's name makes equivalent amendments for Northern Ireland).

271D★ Page 231, line 38, at end insert –

- “2A In Schedule 5 to the Sexual Offences Act 2003, in the list of offences for Northern Ireland, after paragraph 171H insert –
- “171I An offence under section 160 of the Online Safety Act 2023 (false communications).
- 171J An offence under section 162 of that Act (threatening communications).”

Member's explanatory statement

This amendment concerns offences relevant to the making of certain orders under the Sexual Offences Act 2003. Now that the false and threatening communications offences under this Bill are to extend to Northern Ireland, this amendment updates the references in Schedule 5 to the Sexual Offences Act that relate to Northern Ireland.

271E★ Page 232, line 14, after “sending” insert “or showing”

Member's explanatory statement

This amendment makes a minor change to the description of the epilepsy trolling offence so that the description is more accurate.

Clause 171

LORD PARKINSON OF WHITLEY BAY

283A★ Page 145, line 43, at end insert “, and

- (b) judgements by providers about whether news publisher content amounts to a relevant offence (see section 14(5) and (10)).”

Member's explanatory statement

This amendment, in effect, re-states the provision currently in clause 14(11), requiring OFCOM's guidance under clause 171 to cover the judgements described in the amendment.

After Clause 176

LORD PARKINSON OF WHITLEY BAY

284A★ Insert the following new Clause –

“Offence of failure to comply with confirmation decision: supplementary

- (1) Where a penalty has been imposed on a person by a penalty notice under section 126 in respect of a failure constituting an offence under section (*Confirmation decisions: offence*)(failure to comply with certain requirements of a confirmation decision), no proceedings may be brought against the person for that offence.
- (2) A penalty may not be imposed on a person by a penalty notice under section 126 in respect of a failure constituting an offence under section (*Confirmation decisions: offence*) if –

After Clause 176 - continued

- (a) proceedings for the offence have been brought against the person but have not been concluded, or
 - (b) the person has been convicted of the offence.
- (3) Where a service restriction order under section 131 or an access restriction order under section 133 has been made in relation to a regulated service provided by a person in respect of a failure constituting an offence under section (*Confirmation decisions: offence*), no proceedings may be brought against the person for that offence.”

Member’s explanatory statement

This amendment ensures, among other things, that a person cannot be prosecuted for the new offence created by the new clause to be inserted after clause 125 in the Minister’s name if OFCOM have imposed a financial penalty for the same conduct instead, and vice versa.

Clause 180

LORD PARKINSON OF WHITLEY BAY

- 284B★** Page 150, line 23, leave out “Section 121(7)” and insert “Sections 121(7) and 137(11)”

Member’s explanatory statement

This amendment adds a reference to clause 137(11) so that that provision (which is about enforcement by civil proceedings) has extra-territorial application.

- 284C★** Page 150, line 24, leave out “applies” and insert “apply”

Member’s explanatory statement

This amendment is consequential on the preceding amendment in the Minister’s name.

Clause 181

LORD PARKINSON OF WHITLEY BAY

- 284D★** Page 150, line 29, at end insert –
- “(2A) Section (*Confirmation decisions: offence*) applies to acts done by a person in the United Kingdom or elsewhere (offence of failure to comply with confirmation decision).”

Member’s explanatory statement

This amendment gives wide extra-territorial effect to the new offence created by the new clause to be inserted after clause 125 in the Minister’s name (failure to comply with certain requirements of a confirmation decision).

- 284E★** Page 150, line 31, after “subsection (1)” insert “or (2A)”

Member’s explanatory statement

This amendment extends the extra-territorial effect of the new offence of failure to comply with certain requirements of a confirmation decision in the case of senior managers etc who may commit the offence under clause 178(2) or 179(5).

- 284F★** Page 150, line 34, leave out “or 101” and insert “, 101 or (*Confirmation decisions: offence*)”

Member’s explanatory statement

This amendment is required in order to give United Kingdom courts jurisdiction to deal with the new offence of failure to comply with certain requirements of a confirmation decision if it is committed elsewhere.

Schedule 17

LORD PARKINSON OF WHITLEY BAY

- 286A★** Page 239, line 36, after “19(2)” insert “and (8A)”

Member’s explanatory statement

This amendment ensures that, during the transitional period when video-sharing platform services continue to be regulated by Part 4B of the Communications Act 2003, providers of such services are not exempt from the new duty in clause 19 to supply records of risk assessments to OFCOM.

Clause 188

LORD PARKINSON OF WHITLEY BAY

- 286B★** Page 154, line 1, after “119(10)” insert “and (11)”

Member’s explanatory statement

This amendment effects the repeal of a provision of the Digital Economy Act 2017 which solely relates to another provision of that Act being repealed.

Clause 202

LORD PARKINSON OF WHITLEY BAY

- 290A★** Page 166, line 3, leave out “moderation” and insert “identification”

Member’s explanatory statement

This amendment re-names “content moderation technology” as “content identification technology” as that term is more accurate.

- 290B★** Page 166, line 7, leave out “moderation” and insert “identification”

Member’s explanatory statement

This amendment is consequential on the first amendment of clause 202 in the Minister’s name.

- 290C★** Page 166, line 9, leave out from “analyses” to end of line 11 and insert “content to assess whether it is content of a particular kind (for example, illegal content).”

Member’s explanatory statement

This amendment revises the definition of content identification technology so that the restrictions in the Bill on OFCOM recommending or requiring the use of proactive technology apply to content identification technology operating on any kind of content.

290D★ Page 166, line 12, leave out “moderation” and insert “identification”

Member’s explanatory statement

This amendment is consequential on the first amendment of clause 202 in the Minister’s name.

290E★ Page 167, line 4, leave out “moderation” and insert “identification”

Member’s explanatory statement

This amendment is consequential on the first amendment of clause 202 in the Minister’s name.

290F★ Page 167, line 9, leave out “moderation” and insert “identification”

Member’s explanatory statement

This amendment is consequential on the first amendment of clause 202 in the Minister’s name.

290G★ Page 167, leave out lines 15 to 18

Member’s explanatory statement

This amendment is consequential on the first amendment of clause 202 in the Minister’s name.

Clause 203

LORD PARKINSON OF WHITLEY BAY

290H★ Page 167, line 38, at end insert “, or
(ii) users of another internet service.”

Member’s explanatory statement

This amendment concerns the factors that OFCOM must particularly consider when deciding if content is communicated publicly or privately. The change ensures that one such factor is how easily the content may be shared with users of another service.

Clause 210

LORD PARKINSON OF WHITLEY BAY

304A★ Page 175, line 24, leave out “Except as provided by subsections (2) to (7)” and insert “Subject to the following provisions of this section”

Member’s explanatory statement

This amendment avoids any implication that the power proposed to be inserted by the amendment of the extent clause in the Minister’s name giving power to extend provisions of the Bill to the Crown Dependencies, and related provisions, are limited in extent to the United Kingdom.

304B★ Page 175, line 26, leave out subsection (2)

Member's explanatory statement

This amendment omits a provision in the extent clause which is now dealt with by text inserted by the next three amendments in the Minister's name.

304C★ Page 175, line 29, leave out subsection (3) and insert –

“(3) The following provisions extend to England and Wales and Northern Ireland –

(a) sections 160 to 166;

(b) section 168(1).”

Member's explanatory statement

This amendment revises the extent clause as a result of changes to the extent of the communications offences in Part 10 of the Bill.

304D★ Page 175, line 31, at end insert –

“(aa) section 168(2);”

Member's explanatory statement

This amendment revises the extent clause because the Malicious Communications Act 1988 is no longer repealed in its entirety.

304E★ Page 175, line 35, leave out subsection (6) and insert –

“(6) The following provisions extend to Northern Ireland only –

(a) section 168(3);

(b) section 190(7) to (9).”

Member's explanatory statement

This amendment revises the extent clause so that the amendments of Northern Ireland legislation in clause 168 extend to Northern Ireland only.

304F★ Page 176, line 2, at end insert –

“(7A) His Majesty may by Order in Council provide for any of the provisions of this Act to extend, with or without modifications, to the Bailiwick of Guernsey or to the Isle of Man.

(7B) Subsections (1) and (2) of section 196 apply to an Order in Council under subsection (7A) as they apply to regulations under this Act.”

Member's explanatory statement

This amendment provides a power for His Majesty by Order in Council to extend any of the provisions of the Bill to Guernsey or the Isle of Man.

304G★ Page 176, line 4, leave out from second “to” to end of line 5 and insert “the Bailiwick of Guernsey or the Isle of Man any amendment or repeal made by or under this Act of any part of that Act (with or without modifications).”

Member's explanatory statement

This amendment has the effect that the power conferred by section 411(6) of the Communications Act 2003 may be exercised so as to extend to Guernsey or the Isle of Man the amendment or repeal of provisions of that Act made by the Bill.

- 304H★** Page 176, line 7, leave out “any of the Channel Islands” and insert “the Bailiwick of Guernsey”

Member's explanatory statement

This amendment has the effect that the power conferred by section 338 of the Criminal Justice Act 2003 may be exercised so as to extend to Guernsey (but not Jersey) the amendment of provisions of that Act made by paragraph 7 of Schedule 14 to the Bill.

- 304J★** Page 176, line 10, leave out “any of the Channel Islands” and insert “the Bailiwick of Guernsey”

Member's explanatory statement

This amendment has the effect that the power conferred by section 60(6) of the Modern Slavery Act 2015 may be exercised so as to extend to Guernsey (but not Jersey) the amendment of Schedule 4 to that Act made by paragraph 9 of Schedule 14 to the Bill.

- 304K★** Page 176, line 13, leave out “any of the Channel Islands” and insert “the Bailiwick of Guernsey”

Member's explanatory statement

This amendment has the effect that the power conferred by section 415(1) of the Sentencing Act 2020 may be exercised so as to extend to Guernsey (but not Jersey) the amendment of Schedule 18 to that Act made by paragraph 10 of Schedule 14 to the Bill.

Online Safety Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

18 April 2023
