

Online Safety Bill

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

Clause 48

BARONESS KIDRON
BARONESS HARDING OF WINSCOMBE
LORD BETHELL

Page 46, line 22, at end insert –

“(c) pornographic material that must be put behind age assurance as set out in section (*Ofcom's guidance about age assurance*).

Member's explanatory statement

This amendment ensures parity of age assurance between pornographic material on part 3 and part 5 services.

Clause 156

LORD STEVENSON OF BALMACARA

Lord Stevenson of Balmacara gives notice of his intention to oppose the Question that Clause 156 stand part of the Bill.

Member's explanatory statement

Clause 156 allows the Secretary of State to issue directions to OFCOM in special circumstances, but the power is currently very widely drawn. This amendment is to facilitate discussion on the scope of the power and whether it should be subject to clearer constraints.

After Clause 164

LORD PARKINSON OF WHITLEY BAY

Insert the following new Clause –

“Offence of encouraging or assisting serious self-harm

(1) A person (D) commits an offence if –

(a) D does a relevant act capable of encouraging or assisting the serious self-harm of another person, and

After Clause 164 - *continued*

- (b) D's act was intended to encourage or assist the serious self-harm of another person.
- (2) D "does a relevant act" if D—
 - (a) communicates in person,
 - (b) sends, transmits or publishes a communication by electronic means,
 - (c) shows a person such a communication,
 - (d) publishes material by any means other than electronic means,
 - (e) sends, gives, shows or makes available to a person—
 - (i) material published as mentioned in paragraph (d), or
 - (ii) any form of correspondence, or
 - (f) sends, gives or makes available to a person an item on which data is stored electronically.
- (3) "Serious self-harm" means self-harm amounting to—
 - (a) in England and Wales and Northern Ireland, grievous bodily harm within the meaning of the Offences Against the Person Act 1861, and
 - (b) in Scotland, severe injury,and includes successive acts of self-harm which cumulatively reach that threshold.
- (4) The person referred to in subsection (1)(a) and (b) need not be a specific person (or class of persons) known to, or identified by, D.
- (5) D may commit an offence under this section whether or not serious self-harm occurs.
- (6) If a person (D1) arranges for a person (D2) to do an act that is capable of encouraging or assisting the serious self-harm of another person and D2 does that act, D1 is to be treated as also having done it.
- (7) In the application of subsection (1) to an act by D involving an electronic communication or a publication in physical form, it does not matter whether the content of the communication or publication is created by D (so for example, in the online context, the offence under this section may be committed by forwarding another person's direct message or sharing another person's post).
- (8) In the application of subsection (1) to the sending, transmission or publication by electronic means of a communication consisting of or including a hyperlink to other content, the reference in subsection (2)(b) to the communication is to be read as including a reference to content accessed directly via the hyperlink.
- (9) In the application of subsection (1) to an act by D involving an item on which data is stored electronically, the reference in subsection (2)(f) to the item is to be read as including a reference to content accessed by means of the item to which the person in receipt of the item is specifically directed by D.
- (10) A provider of an internet service by means of which a communication is sent, transmitted or published is not to be regarded as a person who sends, transmits or publishes it.

After Clause 164 - continued

- (11) Any reference in this section to doing an act that is capable of encouraging the serious self-harm of another person includes a reference to doing so by threatening another person or otherwise putting pressure on another person to seriously self-harm.
- “Seriously self-harm” is to be interpreted consistently with subsection (3).
- (12) Any reference to an act in this section, except in subsection (3), includes a reference to a course of conduct, and references to doing an act are to be read accordingly.
- (13) In subsection (3) “act” includes omission.
- (14) 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 5 years or a fine (or both).”

Member’s explanatory statement

This amendment inserts a new offence of encouraging or assisting another person to seriously self-harm, with intent to do so, by means of verbal or electronic communications, publications or correspondence.

Clause 165

LORD PARKINSON OF WHITLEY BAY

Page 142, line 44, at end insert—

- “(4A) Section (*Offence of encouraging or assisting serious self-harm*)(1) applies to an act done outside the United Kingdom, but only if the act is done by a person within subsection (4B).
- (4B) A person is within this subsection if the person is—
- (a) an individual who is habitually resident in the United Kingdom, or
 - (b) a body incorporated or constituted under the law of any part of the United Kingdom.”

Member’s explanatory statement

This amendment provides for the extra-territorial application of the new offence proposed by the amendment in the Minister’s name to be inserted after clause 164.

Page 143, line 7, at end insert –

- “(6A) Proceedings for an offence committed under section (*Offence of encouraging or assisting serious self-harm*) outside the United Kingdom may be taken, and the offence may for incidental purposes be treated as having been committed, at any place in the United Kingdom.
- (6B) In the application of subsection (6A) to Scotland, any such proceedings against a person may be taken, and the offence may for incidental purposes be treated as having been committed –
- (a) in any sheriff court district in which the person is apprehended or is in custody, or
 - (b) in such sheriff court district as the Lord Advocate may determine.
- (6C) In subsection (6B) “sheriff court district” is to be construed in accordance with the Criminal Procedure (Scotland) Act 1995 (see section 307(1) of that Act).”

Member’s explanatory statement

This amendment is required in order to give courts in the United Kingdom jurisdiction to deal with the new offence proposed by the amendment in the Minister’s name to be inserted after clause 164, if the offence is committed outside the United Kingdom.

Clause 166

LORD PARKINSON OF WHITLEY BAY

Page 143, line 10, leave out “or 164” and insert “, 164 or (*Offence of encouraging or assisting serious self-harm*)”

Member’s explanatory statement

This amendment ensures that clause 166, which is about the liability of corporate officers for offences, applies in relation to the new offence proposed by the amendment in the Minister’s name to be inserted after clause 164.

Page 143, line 22, at end insert –

- “(2A) If an offence under section (*Offence of encouraging or assisting serious self-harm*) is committed by a Scottish partnership and it is proved that the offence –
- (a) has been committed with the consent or connivance of a partner of the partnership, or
 - (b) is attributable to any neglect on the part of a partner of the partnership, the partner (as well as the partnership) commits the offence and is liable to be proceeded against and punished accordingly.
- (2B) “Partner”, in relation to a Scottish partnership, includes any person who was purporting to act as a partner.”

Member’s explanatory statement

This amendment ensures that clause 166, which is about the liability of corporate officers for offences, applies to Scottish partnerships.

Clause 169

LORD PARKINSON OF WHITLEY BAY

Page 144, line 25, at end insert –

“(1A) Part 1A of Schedule 14 contains amendments consequential on section (*Offence of encouraging or assisting serious self-harm*).”

Member’s explanatory statement

This amendment introduces a Part of Schedule 14 containing consequential amendments related to the new offence proposed by the amendment in the Minister’s name to be inserted after clause 164.

Schedule 14

LORD PARKINSON OF WHITLEY BAY

Page 232, line 14, at end insert –

“Part 1A

AMENDMENTS CONSEQUENTIAL ON OFFENCE IN SECTION (ENCOURAGING OR ASSISTING SERIOUS SELF-HARM)

Children and Young Persons Act 1933

4A In Schedule 1 to the Children and Young Persons Act 1933 (offences against children and young persons with respect to which special provisions of Act apply), after the entry relating to the Suicide Act 1961 insert –

“An offence under section (*Offence of encouraging or assisting serious self-harm*)(1) of the Online Safety Act 2023 (encouraging or assisting serious self-harm) where the relevant act is an act capable of, and done with the intention of, encouraging or assisting the serious self-harm of a child or young person.”

Visiting Forces Act 1952

4B(1) The Schedule to the Visiting Forces Act 1952 (offences referred to in section 3) is amended as follows.

(2) In paragraph 1(b), after paragraph (xv) insert –

“(xvi) section (*Offence of encouraging or assisting serious self-harm*) of the Online Safety Act 2023;”.

(3) In paragraph 2(b), after paragraph (iv) insert –

“(v) section (*Offence of encouraging or assisting serious self-harm*) of the Online Safety Act 2023;”.

Children and Young Persons Act (Northern Ireland) 1968 (c. 34 (N.I.))

4C In Schedule 1 to the Children and Young Persons Act (Northern Ireland) 1968 (offences against children and young persons with respect to which special provisions of Act apply), after the entry relating to the Criminal Justice Act (Northern Ireland) 1966 insert –

Schedule 14 - continued

“An offence under section (*Offence of encouraging or assisting serious self-harm*)(1) of the Online Safety Act 2023 (encouraging or assisting serious self-harm) where the relevant act is an act capable of, and done with the intention of, encouraging or assisting the serious self-harm of a child or young person.”

Criminal Attempts Act 1981

4D In section 1 of the Criminal Attempts Act 1981 (attempting to commit an offence), in subsection (4), after paragraph (c) insert –

“(d) an offence under section (*Offence of encouraging or assisting serious self-harm*)(1) of the Online Safety Act 2023 (encouraging or assisting serious self-harm).”

Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (S.I. 1983/ 1120 (N.I. 13))

4E In Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (attempting to commit an offence), in paragraph (4), after sub-paragraph (c) insert –

“(ca) an offence under section (*Offence of encouraging or assisting serious self-harm*)(1) of the Online Safety Act 2023 (encouraging or assisting serious self-harm);”

Armed Forces Act 2006

4F In Schedule 2 to the Armed Forces Act 2006 (“Schedule 2 offences”), in paragraph 12, at the end insert –

“(ba) an offence under section (*Offence of encouraging or assisting serious self-harm*) of the Online Safety Act 2023 (encouraging or assisting serious self-harm).”

Serious Crime Act 2007

4G(1) The Serious Crime Act 2007 is amended as follows.

(2) In section 51A (exceptions to section 44 for encouraging or assisting suicide) –

(a) the existing text becomes subsection (1);

(b) after that subsection insert –

“(2) Section 44 does not apply to an offence under section (*Offence of encouraging or assisting serious self-harm*)(1) of the Online Safety Act 2023 (offence of encouraging or assisting serious self-harm).”;

(c) in the heading, at the end insert “or serious self-harm”.

(3) In Part 1 of Schedule 3 (listed offences: England and Wales and Northern Ireland), after paragraph 24A insert –

“Online Safety Act 2023

24B An offence under section (*Offence of encouraging or assisting serious self-harm*)(1) of the Online Safety Act 2023 (encouraging or assisting serious self-harm).”

Member's explanatory statement

This amendment makes changes which are consequential on the new offence proposed by the amendment in the Minister's name to be inserted after clause 164. Among other things, changes are proposed to the Criminal Attempts Act 1981 and the Serious Crime Act 2007 to ensure that offences of attempt and encouragement etc in those Acts do not apply in relation to the new offence, because that offence is itself an inchoate offence.

Clause 210

LORD PARKINSON OF WHITLEY BAY

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 164;
- (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.

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18 May 2023
