

**Changes to legislation:** Education Act 2002, SCHEDULE 11B is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 11B

Section 141G

#### OFFENCE UNDER SECTION 141G: SUPPLEMENTARY PROVISIONS

##### Textual Amendments

**F1** Sch. 11B inserted (1.10.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 4](#); [S.I. 2012/2213](#), art. 3

##### *Introduction*

- 1 (1) This Schedule makes supplementary provision relating to an offence under section 141G (breach of reporting restrictions relating to alleged offences committed by teachers).
- (2) [<sup>F2</sup>In this Schedule “the E-Commerce Directive” means] [Directive 2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market<sup>F3</sup>....

##### Textual Amendments

- F2** Words in [Sch. 11B para. 1\(2\)](#) substituted (3.3.2021) by [The Electronic Commerce Directive \(Education, Adoption and Children\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/222\)](#), regs. 1(1), [2\(2\)\(a\)\(i\)](#)
- F3** Words in [Sch. 11B para. 1\(2\)](#) omitted (3.3.2021) by virtue of [The Electronic Commerce Directive \(Education, Adoption and Children\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/222\)](#), regs. 1(1), [2\(2\)\(a\)\(ii\)](#)

##### *Domestic service providers: extension of liability*

<sup>F4</sup>2 .....

##### Textual Amendments

- F4** [Sch. 11B para. 2](#) omitted (3.3.2021) by virtue of [The Electronic Commerce Directive \(Education, Adoption and Children\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/222\)](#), regs. 1(1), [2\(2\)\(b\)](#)

##### *Non-UK service providers: restriction on proceedings*

<sup>F5</sup>3 .....

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### Textual Amendments

**F5** Sch. 11B para. 3 omitted (3.3.2021) by virtue of [The Electronic Commerce Directive \(Education, Adoption and Children\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/222\)](#), regs. 1(1), **2(2)(b)**

#### *Exceptions for mere conduits*

- 4 (1) A service provider is not guilty of an offence under section 141G in respect of anything done in the course of providing so much of an information society service as consists in—
- (a) the provision of access to a communication network, or
  - (b) the transmission in a communication network of information provided by a recipient of the service,
- if the following condition is satisfied.
- (2) The condition is that the service provider does not—
- (a) initiate the transmission,
  - (b) select the recipient of the transmission, or
  - (c) select or modify the information contained in the transmission.
- (3) For the purposes of sub-paragraph (1)—
- (a) the provision of access to a communication network, and
  - (b) the transmission of information in a communication network,
- includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.
- (4) Sub-paragraph (3) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

#### *Exception for caching*

- 5 (1) This paragraph applies where an information society service consists in the transmission in a communication network of information provided by a recipient of the service.
- (2) The service provider is not guilty of an offence under section 141G in respect of the automatic, intermediate and temporary storage of information so provided, if—
- (a) the storage of the information is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request, and
  - (b) the following conditions are satisfied.
- (3) The first condition is that the service provider does not modify the information.
- (4) The second condition is that the service provider complies with any conditions attached to having access to the information.
- (5) The third condition is that if the service provider obtains actual knowledge that—
- (a) the information at the initial source of the transmission has been removed from the network,
  - (b) access to it has been disabled, or

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- (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information,  
the service provider expeditiously removes the information or disables access to it.

*Exception for hosting*

- 6 (1) A service provider is not guilty of an offence under section 141G in respect of anything done in the course of providing so much of an information society service as consists in the storage of information provided by a recipient of the service, if the condition is met.
- (2) The condition is that—
  - (a) the service provider had no actual knowledge when the information was provided that it contained offending material, or
  - (b) on obtaining actual knowledge that the information contained offending material, the service provider expeditiously removed the information or disabled access to it.
- (3) “Offending material” means material the publication of which constitutes an offence under section 141G.
- (4) This paragraph does not apply if the recipient of the service is acting under the authority or control of the service provider.

*Interpretation*

- 7 (1) In this Schedule—
  - “information society services”—
    - (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive [98/34/EC](#) of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and
    - (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”;
  - “recipient”, in relation to a service, means any person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible;
  - “service provider” means a person providing an information society service.

F6(2) . . . . . ]

**Textual Amendments**

**F6** Sch. 11B para. 7(2) omitted (3.3.2021) by virtue of [The Electronic Commerce Directive \(Education, Adoption and Children\) \(Amendment etc.\) Regulations 2021 \(S.I. 2021/222\)](#), regs. 1(1), **2(2)(c)**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2003/1667 Sch. para. 1 by [S.I. 2004/571 Sch.](#)
- specified provision(s) amendment to earlier commencing SI 2003/1667 Sch. para. 1A and 2 by [S.I. 2005/2570 art. 2](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 27(1A) inserted by [2010 c. 26 s. 4\(1\)](#)
- s. 29(2A)-(2D) inserted by [2009 c. 22 s. 260\(4\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 250 omitted (1.9.2012) by virtue of 2011 c. 21, s. 29(9)(d); S.I. 2012/1087, art. 3)
- s. 29B inserted by [2008 c. 25 s. 157](#)
- s. 8585A substituted for s. 85 by [2006 c. 40 s. 74\(1\)](#)
- s. 85A amendment to earlier affecting provision 2006 c. 40 s. 74(1) by [2011 c. 21 s. 31\(2\)](#)
- s. 85A(5) words substituted by [2009 c. 22 Sch. 12 para. 34](#)
- s. 86(1) s. 86 renumbered as s. 86(1) by [2006 c. 40 s. 74\(2\)\(c\)](#)
- s. 86(2) inserted by [2006 c. 40 s. 74\(2\)\(c\)](#)
- s. 88(2)-(7) inserted by [2006 c. 40 s. 74\(3\)](#)
- s. 88(7) repealed by [S.I. 2010/1080 Sch. 1 para. 45Sch. 2 Pt. 1](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of s. 88(2)-(7) by 2006 c. 40, s 74(3) was repealed without ever being brought into force.)
- s. 142(9)(b) words substituted by [S.I. 2010/1158 Sch. 2 para. 11\(10\)\(b\)](#)
- s. 210A inserted by [2008 c. 25 Sch. 1 para. 79](#)