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ONLINE CRIMINAL HARMS ACT 2023

ONLINE CRIMINAL HARMS (SERVICE) REGULATIONS 2024

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In exercise of the powers conferred by section 60 of the Online Criminal Harms Act 2023, the Minister for Home Affairs makes the following Regulations:

Citation and commencement

1. These Regulations are the Online Criminal Harms (Service) Regulations 2024 and come into operation on 1 February 2024.

Definitions

2. In these Regulations —

“electronic service” means —

- (a) a service that allows end-users to access information or material using a broadcasting service or a telecommunication service for carrying messages or other information or material (whether between persons and persons, things and things or persons and things); or
- (b) a service that delivers information or material to persons having equipment appropriate for receiving

that information or material, where the delivery of the service is by a broadcasting service or telecommunication service described in paragraph (a);

“MMS” means an electronic service that enables the transmission of multimedia messages (such as visual or voice communication) from an end-user on a mobile telephone to another mobile telephone through a telecommunication service;

“MMS message” means a message (whether or not accompanied by any sound or images) sent using an MMS;

“point-to-multipoint service” means an electronic service which allows a person to transmit material to more than one end-user simultaneously;

“relevant electronic service” means any of the following electronic services that is supplied to the public:

- (a) an electronic service that enables end-users to communicate, by means of email, with other end-users;
- (b) an online instant messaging service that enables end-users to communicate with other end-users;
- (c) a service that enables end-users to play online games with other end-users;
- (d) a service that specialises in providing links or facilitating access to, or information about, online locations, such as (but not limited to) a search engine, directory service or web browser;
- (e) a point-to-multipoint service;

“SMS” means an electronic service that enables the transmission of short text messages from an end-user on a mobile telephone to another mobile telephone through a telecommunication service;

“SMS message” means a text message sent using an SMS;

“social media service” means an electronic service that satisfies all the following characteristics:

- (a) the sole or primary purpose of the service is to enable online interaction or linking between 2 or more end-users (including enabling end-users to share content for social purposes);
- (b) the service allows end-users to post information or material on the service.

Additional means of service for Part 2 directions, etc.

3.—(1) For the purposes of section 45(5)(c) of the Act, the means of service in paragraphs (2), (3), (4) and (5) are prescribed for the service of the following documents on a person:

- (a) any Part 2 direction or Part 6 order addressed to the person;
- (b) any notice under section 47 or 48 of the Act addressed to the person.

(2) If the person has a telephone account or an account on a social media service or relevant electronic service that the person may be contacted at, a document mentioned in paragraph (1) may be served on the person by sending to that account an electronic copy of the document or an electronic notice in accordance with paragraph (6).

Illustrations

Sending a document addressed to a person by SMS or MMS to the person’s telephone account or by mobile chat application to the person’s account.

Sending a document addressed to a person to the person’s email account.

(3) If the person is the proprietor of an online location, and that online location provides a means —

- (a) for corresponding with the person (which may include a feedback function) on that online location; or
- (b) for the posting of comments, on that online location,

a document mentioned in paragraph (1) may be served on the person by posting on that online location an electronic copy of the document or a notice in accordance with paragraph (6).

(4) Subject to regulation 4, a document mentioned in paragraph (1) may be served by publishing in the *Gazette* a copy of the document or a notice in accordance with paragraph (6).

(5) Subject to regulation 4, a document mentioned in paragraph (1) may be served by publishing a copy of the document or a notice in accordance with paragraph (6) —

(a) in a daily newspaper circulating in Singapore or any other news media that, in the opinion of the person serving the document, will be most likely to bring the document to the attention of the person to be served; and

(b) on an official website.

(6) The electronic notice or notice mentioned in paragraph (2), (3), (4) or (5) must —

(a) identify the document to be served; and

(b) contain a statement on how the person to be served may obtain a copy of the document.

Requirement for service under regulation 3(4) or (5)

4. Regulation 3(4) and (5) applies if and only if —

(a) the person to be served cannot, by the exercise of due diligence, be found;

(b) the name, residential address, business address and last email address of the person to be served cannot, by due diligence, be ascertained;

(c) the person to be served does not appear to have any account mentioned in regulation 3(2);

(d) the person to be served is not the proprietor of an online location mentioned in regulation 3(3);

(e) the person to be served has not agreed to a chosen means of notification or a chosen means of access; and

(f) the person to be served has not appointed an appointed representative to accept service of the document.

When service takes effect

5.—(1) Service under regulation 3(2) or (3) takes effect when the person on whom the document is to be served is capable of retrieving the electronic copy of the document or the electronic notice mentioned in regulation 3(2) or (3) (as the case may be) from the person's account mentioned in that provision.

(2) Service by publication in accordance with regulation 3(4) or (5) takes effect at the beginning of the day after the date on which the document or notice mentioned in regulation 3(4) or (5) (as the case may be) is so published.

Made on 29 January 2024.

PANG KIN KEONG
*Permanent Secretary,
Ministry of Home Affairs,
Singapore.*

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(To be presented to Parliament under section 60(3) of the Online Criminal Harms Act 2023).