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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Online Safety Amendment (Social Media Minimum Age) Bill 2024

No. , 2024

(Communications)

A Bill for an Act to amend the *Online Safety Act 2021*, and for related purposes

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1 **A Bill for an Act to amend the *Online Safety Act***
2 ***2021*, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act is the *Online Safety Amendment (Social Media Minimum*
6 *Age) Act 2024*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.
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Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	
Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.		
(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.		
3 Schedules		
Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.		

Schedule 1—Amendments

Part 1—Amendment of the Online Safety Act 2021

Online Safety Act 2021

1 At the end of section 4

Add:

- There are age restrictions for certain social media platforms. A provider of such a platform must take reasonable steps to prevent children who have not reached a minimum age from having accounts.

2 Section 5

Insert:

age-restricted social media platform has the meaning given by section 63C.

age-restricted user means an Australian child who has not reached 16 years.

3 Section 5 (definition of *provider*)

After “social media service,”, insert “age-restricted social media platform,”.

4 Section 25

Omit:

- (f) coordinating activities of Commonwealth Departments, authorities and agencies relating to online safety for Australians.

substitute:

- (f) coordinating activities of Commonwealth Departments, authorities and agencies relating to online safety for Australians; and

- (g) performing various functions relating to the social media minimum age provisions in Part 4A.

5 After paragraph 27(1)(q)

Insert:

- (qa) to formulate, in writing, guidelines for the taking of reasonable steps to prevent age-restricted users having accounts with age-restricted social media platforms; and
(qb) to promote guidelines formulated under paragraph (qa); and

6 At the end of section 27

Add:

- (6) Guidelines formulated under paragraph (1)(qa) are not legislative instruments.

7 After Part 4

Insert:

Part 4A—Social media minimum age

Division 1—Introduction

63A Simplified outline of this Part

- Providers of certain kinds of social media platforms must take reasonable steps to prevent children who have not reached a minimum age from having accounts. This requirement takes effect on a day specified by the Minister.
- There are privacy protections for information collected by social media platforms for the purposes of the minimum age requirement.

63B Object of this Part

The object of this Part is to reduce the risk of harm to age-restricted users from certain kinds of social media platforms.

63C Age-restricted social media platform

(1) For the purposes of this Act, *age-restricted social media platform* means:

(a) an electronic service that satisfies the following conditions:

(i) the sole purpose, or a significant purpose, of the service is to enable online social interaction between 2 or more end-users;

(ii) the service allows end-users to link to, or interact with, some or all of the other end-users;

(iii) the service allows end-users to post material on the service;

(iv) such other conditions (if any) as are set out in the legislative rules; or

(b) an electronic service specified in the legislative rules; but does not include a service mentioned in subsection (6).

Note 1: Online social interaction does not include (for example) online business interaction.

Note 2: An age-restricted social media platform may be, but is not necessarily, a social media service under section 13.

Note 3: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

(2) For the purposes of subparagraph (1)(a)(i), online social interaction includes online interaction that enables end-users to share material for social purposes.

Note: Social purposes does not include (for example) business purposes.

(3) In determining whether the condition set out in subparagraph (1)(a)(i) is satisfied, disregard any of the following purposes:

(a) the provision of advertising material on the service;

(b) the generation of revenue from the provision of advertising material on the service.

(4) The Minister may only make legislative rules specifying an electronic service for the purposes of paragraph (1)(b) if the Minister is satisfied that it is reasonably necessary to do so in order to minimise harm to age-restricted users.

- 1 (5) Before making legislative rules specifying an electronic service for
2 the purposes of paragraph (1)(b):
3 (a) the Minister must seek advice from the Commissioner, and
4 must have regard to that advice; and
5 (b) the Minister may seek advice from any other authorities or
6 agencies of the Commonwealth that the Minister considers
7 relevant, and may have regard to any such advice.

8 *Services that are not age-restricted social media platforms*

- 9 (6) An electronic service is not an ***age-restricted social media***
10 ***platform*** if:
11 (a) none of the material on the service is accessible to, or
12 delivered to, one or more end-users in Australia; or
13 (b) the service is specified in the legislative rules.

14 Note: For specification by class, see subsection 13(3) of the *Legislation Act*
15 *2003*.

- 16 (7) Before making legislative rules specifying an electronic service for
17 the purposes of paragraph (6)(b):
18 (a) the Minister must seek advice from the Commissioner, and
19 must have regard to that advice; and
20 (b) the Minister may seek advice from any other authorities or
21 agencies of the Commonwealth that the Minister considers
22 relevant, and may have regard to any such advice.

23 **Division 2—Civil penalty**

24 **63D Civil penalty for failing to take reasonable steps to prevent**
25 **age-restricted users having accounts**

26 A provider of an age-restricted social media platform must take
27 reasonable steps to prevent age-restricted users having accounts
28 with the age-restricted social media platform.

29 Civil penalty: 30,000 penalty units.

63E Delayed effect of civil penalty provisions

- (1) Section 63D takes effect on a day specified in an instrument under subsection (2) of this section.
- (2) The Minister may, by notifiable instrument, specify a day for the purposes of subsection (1).
- (3) The specified day must not be earlier than 12 months after the day this section commences.
- (4) To avoid doubt, the obligation in section 63D applies in relation to accounts with an age-restricted social media platform if the accounts exist on or after the day section 63D takes effect (including accounts that began to exist before that day, and accounts that began to exist before the day this section commences).

Division 3—Privacy

63F Information collected for purposes including taking reasonable steps to comply with age restriction

- (1) If an entity:
 - (a) holds personal information about an individual that was collected for the purpose of, or for purposes including the purpose of, taking reasonable steps to prevent age-restricted users having accounts with an age-restricted social media platform; and
 - (b) uses or discloses the information otherwise than:
 - (i) for the purpose of determining whether or not the individual is an age-restricted user; or
 - (ii) in circumstances where paragraph 6.2(b), (c), (d) or (e) of the Australian Privacy Principles applies; or
 - (iii) with the consent of the individual, which must be in accordance with subsection (2);the use or disclosure of the information is taken to be:
 - (c) an interference with the privacy of the individual for the purposes of the *Privacy Act 1988*; and
 - (d) covered by section 13 of that Act.

1 Note: An act or practice that is an interference with privacy may be the
2 subject of a complaint under section 36 of the *Privacy Act 1988*.

- 3 (2) For the purposes of subparagraph (1)(b)(iii):
4 (a) the consent must be:
5 (i) voluntary; and
6 (ii) informed; and
7 (iii) current; and
8 (iv) specific; and
9 (v) unambiguous; and
10 (b) the individual must be able to withdraw the consent in a
11 manner that is easily accessible to the individual.
- 12 (3) If an entity holds personal information about an individual that was
13 collected for the purpose of, or for purposes including the purpose
14 of, taking reasonable steps to prevent age-restricted users having
15 accounts with an age-restricted social media platform, then:
16 (a) the entity must destroy the information after using or
17 disclosing it for the purposes for which it was collected; and
18 (b) if the entity does not so destroy the information, the failure to
19 destroy the information is taken to be:
20 (i) an interference with the privacy of the individual for the
21 purposes of the *Privacy Act 1988*; and
22 (ii) covered by section 13 of that Act.

23 Note: An act or practice that is an interference with privacy may be the
24 subject of a complaint under section 36 of the *Privacy Act 1988*.

- 25 (4) In this section:
26 **entity** has the same meaning as in Division 1 of Part III of the
27 *Privacy Act 1988*.
28 **personal information** has the same meaning as in the *Privacy Act*
29 *1988*.

Division 4—Information-gathering powers

63G Commissioner may obtain information about compliance

Scope

- (1) This section applies to a person if the Commissioner believes on reasonable grounds that:
- (a) the person is a provider of an age-restricted social media platform; and
 - (b) the person has information relevant to the person's compliance with section 63D.
- (2) This section also applies to a person if the Commissioner believes on reasonable grounds that:
- (a) the person is a provider of an electronic service; and
 - (b) the person has information relevant to whether the service is a service specified in the legislative rules for the purposes of paragraph 63C(1)(b) or (6)(b).

Requirement

- (3) The Commissioner may, by written notice given to a person to whom this section applies, require the person to give to the Commissioner, within the period and in the manner and form specified in the notice, any information mentioned in paragraph (1)(b) or (2)(b) (as the case may be).

63H Compliance with notice

A person must comply with a requirement under section 63G to the extent that the person is capable of doing so.

Civil penalty: 500 penalty units.

Division 5—Platform provider notifications

63J Platform provider notifications

If the Commissioner is satisfied that the provider of an age-restricted social media platform:

- 1 (a) has contravened section 63D (failing to take reasonable steps
2 to prevent age-restricted users having accounts); or
3 (b) has used, disclosed or failed to destroy information in a way
4 that is taken to be an interference with privacy under
5 subsection 63F(1) or (3) (privacy);
6 the Commissioner may:
7 (c) prepare a statement to that effect; and
8 (d) give a copy of the statement to the provider of the platform;
9 and
10 (e) if the Commissioner considers that it is appropriate to publish
11 the statement—publish the statement on the Commissioner’s
12 website.

13 **8 Subsection 143(2) (penalty)**

14 Repeal the penalty, substitute:

15 Civil penalty: 30,000 penalty units.

16 **9 At the end of section 143**

17 Add:

- 18 (3) Subsection 93(2) of the *Regulatory Powers (Standard Provisions)*
19 *Act 2014* does not apply in relation to a contravention of
20 subsection (2) of this section.

21 **10 Section 146**

22 Before “If”, insert “(1)”.

23 **11 Section 146 (penalty)**

24 Omit “500”, substitute “30,000”.

25 **12 At the end of section 146**

26 Add:

- 27 (2) Subsection 93(2) of the *Regulatory Powers (Standard Provisions)*
28 *Act 2014* does not apply in relation to a contravention of
29 subsection (1) of this section.

1 **13 After paragraphs 163(1)(d), 164(1)(d) and 165(1)(d)**

2 Insert:

3 (da) section 63D;

4 (db) section 63H;

5 **14 Section 238 (heading)**

6 After “social media service,” insert “age-restricted social media
7 platform,”.

8 **15 Subsections 238(1) and (3)**

9 After “social media service,” (wherever occurring), insert
10 “age-restricted social media platform,”.

11 **16 After section 239A**

12 Insert:

13 **239B Review of social media minimum age**

14 (1) Within 2 years after the day section 63D takes effect in accordance
15 with section 63E, the Minister must cause to be conducted an
16 independent review of the operation of Part 4A.

17 (2) The Minister must cause to be prepared a written report of the
18 review.

19 (3) The Minister must cause copies of the report to be tabled in each
20 House of the Parliament within 15 sitting days of that House after
21 the day on which the report is given to the Minister.

1 **Part 2—Other amendments**

2 *Age Discrimination Act 2004*

3 **17 Schedule 2 (after table item 8)**

4 Insert:

8A *Online Safety Act 2021*

paragraphs
27(1)(qa) and (qb)
and Part 4A

1 **Part 3—Transitional provisions**

2 **18 Transitional provision—compliance with industry codes**

3 The amendments of section 143 of the *Online Safety Act 2021* made by
4 this Schedule apply in relation to directions given under that section on
5 or after the commencement of this Schedule (including such directions
6 given in relation to industry codes that were registered before that
7 commencement).

8 **19 Transitional provision—compliance with industry**
9 **standards**

10 The amendments of section 146 of the *Online Safety Act 2021* made by
11 this Schedule apply in relation to a failure to comply with an industry
12 standard that occurs on or after the commencement of this Schedule
13 (including failures to comply with industry standards that were
14 registered before that commencement).