

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4129 of 1 December, 2014

LEGAL NOTICE NO. 225 OF 2014.

COMMUNICATIONS ACT 2006

INTERPRETATION AND GENERAL CLAUSES ACT

COMMUNICATIONS (COMBATING CHILD PORNOGRAPHY) (AMENDMENT) REGULATIONS 2014

In exercise of the powers conferred upon him by section 9 of the Communications Act 2006 and section 23(g)(i) of the Interpretation and General Clauses Act, and for the purposes of transposing, in part, Council Decision of 29 May 2000 to combat child pornography on the Internet (2000/375/JHA), the Minister has made the following Regulations–

Title and commencement.

1. These Regulations may be cited as the Communications (Combating Child Pornography) (Amendment) Regulations 2014 and come into operation on 1 December 2014.

Amendment of Regulations.

2. The Communications (Combating Child Pornography) Regulations 2013 are amended in accordance with the provisions in regulations 3 and 4.

Amendments to regulation 4.

3.(1) In regulation 4(2)(b) insert the following words before the word “if”–

“subject to a law enforcement agency’s advice under subregulation (3),”.

(2) After regulation 4(2) insert the following subregulations–

“(3) The Authority, prior to advising the internet service provider to remove the web page containing or disseminating child pornography, as provided for under subregulation (2)(b), if advised by a law enforcement agency that the internet service provider must continue to host the web page containing or disseminating child

pornography, may advise the internet service provider to continue to host the web page containing or disseminating child pornography, until such time as it is advised to remove the web page under subregulation (2)(b).

(4) A law enforcement agency may only advise the Authority to suspend the removal of the web page containing and disseminating child pornography, under subregulation (3) if-

- (a) the suspension is necessary in order to carry out an investigation;
- (b) the law enforcement agency immediately take steps to apprehend a suspect; and
- (c) it is necessary for the web page containing or disseminating child pornography to continue to be hosted in order to apprehend a suspect or widen the search for another suspect.”.

Amendment to regulation 6.

4. After regulation 6(3) insert-

“(4) An internet service provider who, pursuant to regulation 4(3), continues to host a web page containing or disseminating child pornography is not liable under civil or criminal law for continuing to host the web page containing or disseminating child pornography.”.

Dated 1st December, 2014.

G H LICUDI Q.C.,
Minister with responsibility for Communications.

EXPLANATORY MEMORANDUM

These Regulations partly transpose into the law of Gibraltar Council Decision of 29 May 2000 to combat child pornography on the Internet (2000/375/JHA).