

Social media minimum age legislation: Design principles

Legislation purpose statement: The Bill will amend the *Online Safety Act 2021* with the aim of minimising the risk of harms to young Australians from social media, place responsibility on social media platforms for the safety of their users, and incentivise safe innovation on digital platforms

s47G(1)(b), s47E(d)

Principle	Proposed policy elements	Consultation Notes
<p>Regulated activity</p>	<ul style="list-style-type: none"> • Age restricted social media platforms must be able to demonstrate having taken ‘reasonable steps’ to prevent under-age users from ‘having an account’. • Onus is on platforms – not parents, carers or educators. • Penalties will apply for any breach. 	<ul style="list-style-type: none"> • French: reasonable steps – guidelines might be necessary to comply, but not sufficient. What’s the legal effect of the guidelines? Is compliance with the guidelines sufficient to meet the obligation? Issue guidelines to help industry, but leave ultimate question open to court, so people go beyond the strict (fear of court). Useful to spell out necessary not sufficient. <ul style="list-style-type: none"> ○ Civil penalty: reg powers act – infringements, enforceable undertakings – good to have flexibility. ○ s33(a)(iii) ○ Exemptions: the criteria – can the Minister direct the Commissioner to revoke an instrument - e.g. don’t like the criteria, so re-do. ○ Legislative design- being done in interests of protecting children. French included a compensation order, paid into a fund -

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		<p>research or compensation to child. No private cause in our legislation – had proposed for South Aust a stat. tort.</p> <ul style="list-style-type: none"> ○ Online Safety Account – exists, compensation orders to support research. ○ Fundamentals fit reasonably will with OSA ○ Minister comfortable with this being regulatory not private remedies. <p>s47C, s47E(d)</p> <p>s47G(1)(b), s47E(d)</p>

Principle	Proposed policy elements	Consultation Notes
		s47G(1)(b), s47E(d)
Regulated platforms	<ul style="list-style-type: none"> • The new obligation will apply to ‘age-restricted social media platforms’, which captures a range of services that facilitate online social interaction. • There will be flexibility to further target the definition through regulations. In the first instance, these will be used take the following services out of scope: <ul style="list-style-type: none"> ○ Instant messaging ○ Online gaming ○ Services that primarily support the education and health of users 	<ul style="list-style-type: none"> • French – regulator spell out list of out of scope s47G(1)(b), s47E(d)

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		s47G(1)(b), s47E(d)
<p>Exemption framework</p>	<ul style="list-style-type: none"> • There will be exemptions from the new obligation, if platforms and services can demonstrate they meet certain criteria. • The criteria will require platforms to demonstrate harm minimisation to children engaging on platforms, including those arising from addictive features. • The criteria will be set out in a legislative instrument, to be co-designed in 2025 with experts, industry and young people. 	

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		s47G(1)(b), s47E(d)
Parental consent	<ul style="list-style-type: none"> Parental consent will not feature as an exemption to platforms for the minimum age obligation. 	<ul style="list-style-type: none"> s47C, s47E(d) <p>s47G(1)(b), s47E(d)</p>
Grandfathering	<ul style="list-style-type: none"> Grandfathering arrangements will not feature. Platforms will be expected to remove existing account holders under the minimum age. 	
Privacy protections	<ul style="list-style-type: none"> Platforms must not use information and data collected for age assurance purposes for any other purpose, unless explicitly agreed by the user. 	

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Principle	Proposed policy elements	Consultation Notes
	<ul style="list-style-type: none"> Once the information has been used for age assurance, it must be destroyed or de-identified by the platforms. Penalties will apply for any breach. 	
<p>Commencement</p>	<ul style="list-style-type: none"> The minimum age obligation will commence no earlier than 12-months after Royal Assent of the Bill. 	<p>s47G(1)(b), s47E(d)</p>
<p>Review</p>	<ul style="list-style-type: none"> An independent review of the legislation will be conducted within 2 years of effective commencement or in line with future Online Safety Act reviews, whichever is sooner. 	<ul style="list-style-type: none">

Other

s47G(1)(b), s47E(d)



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