REPUBLIC OF VANUATU

CONSOLIDATION OF THE FRENCH AND ENGLISH TEXTS OF THE LAWS OF VANUATU ACT [CAP 295]

Approval of the English Text of the Harmful Digital Communications Consolidation Edition 2025 Order No. 176 of 2025

In exercise of the powers conferred on me by subsection 9(1) of the Consolidation of the French and English Texts of the Laws of Vanuatu Act [CAP 295], I, the Honourable JOB SAM ANDY, Minister of Youth, Justice and Community Services, make the following Order:

1 Approval of the English Text of the Harmful Digital Communications Consolidation Edition 2025

The English Text of the Harmful Digital Communications Consolidation Edition 2025 is approved.

2 Appointed day

The appointed day for the coming into operation of the Harmful Digital Communications Consolidation Edition 2025 is the day on which this Order is made.

3 Commencement

This Order commences on the day on which it is made.

Made at Port Vila this 27th **day of** August **, 2025.**

REPUBLIC OF VANUATU Ministry of Justice & Community Service MINISTER Ministère de la Justice et des Services du Communautaires RÉPUBLIQUE DE VANUATU

Honourable JOB SAM ANDY
Minister of Youth, Justice and Community Services

Commencement: 2 January 2025

HARMFUL DIGITAL COMMUNICATIONS ACT NO. 14 OF 2024

Act 14 of 2024
Act 8 of 2025

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HARMFUL DIGITAL COMMUNICATIONS ACT NO. 14 OF 2024

An Act to regulate the use of harmful digital communications and for related matters.

PART 1 – PRELIMINARY MATTERS

1. Interpretation

(1) In this Act, unless the contrary intention appears:

"applicant" means a person who makes an application under section 3;

"application" means an application to the Magistrates Court under section 7;

"Authority" means the Digital Safety Authority established under the Digital Safety Authority Act No. 15 of 2024;

"Commission" means the Digital Safety Commission established under the Digital Safety Authority Act No. 15 of 2024;

"Communication Principles" means the Communication Principles under section 2;

"court" means the Magistrates Court or the Supreme Court;

"Deputy Commissioner" means the Deputy Commissioner of Harmful Digital Communications appointed under the Digital Safety Authority Act No. 15 of 2024;

"digital communication" means:

(a) any email, phone call, social media messaging, posts or comments related to posts, short message service or text message, web chat, blog, podcast or video; or

(b) any writing, photograph, picture, recording or other matter that is communicated electronically; or

(c) any other form of electronic communication;

"digital impersonation" means the act of fraudulently assuming or misrepresenting the digital identity of another person, group, or entity, without consent, and using electronic means with the intent to deceive, harm, defraud, or manipulate others;

"fake" ID means any document or means of identification that:

(a) is not issued by or under the authority of a governmental entity (such as a state, national, or international government, or an authorized agency); or

(b) has been altered, forged, counterfeited, or otherwise modified after issuance for the purpose of deception, or fraud; or

(c) establishes a false identity by presenting information (such as name, date of birth, photograph, or other identifying details) that is not true or does not belong to the person presenting it;

"harm" means serious emotional distress;

"internet protocol address provider" means a person that operates a business that, other than as an incidental feature of its main business activities:

(a) offers the transmission, routing, and providing of connections for digital online communications, between or among points specified by a user, of material of the user's choosing; and

(b) allocates Internet Protocol addresses to its account holders; and

(c) charges its account holders for its services; and

(d) is not primarily operated to cater for transient users;

"internet service provider" means an entity or company that provides individuals, businesses, and organisations with access to the internet and related services such as email, web hosting and digital storage;

"intimate visual recording" has the meaning given by subsections (2) and (3);

"Minister" means the Minister responsible for harmful digital communications;

"minor" means a person under the age of 16 years;

"online content administrator" means an individual, group or entity responsible for creating, managing, overseeing, maintaining and regulating user-generated digital content on online platforms and digital systems;

"online content host", in relation to a digital communication, means the person who has control over the part of the electronic retrieval system, such as a website or an online application, on which the communication is posted and accessible by the user;

"pornographic content" means any material, regardless of medium (print, digital, audio, video, animation) that is produced, distributed, or possessed with the intent to cause sexual arousal and that depicts sexual acts, nudity, or lewd behaviour and includes the following materials:

(a) photographs, films, and videos; and

(b) written stories or descriptions; and

(c) audio recordings; and

(d) computer-generated images or animations (including AI-generated content); and

(e) online content (websites, social media, forums, etc.);

"post", in relation to a digital communication, means:

(a) to transfer, send, publish, disseminate, or otherwise communicate by means of a digital communication:

(i) any information, whether truthful or untruthful, about a victim; or

(ii) an intimate visual recording of an individual; and

(b) to include an attempt to do anything referred to in paragraph (a);

"social media platform" means any online service, site, or application that enables users to create and share content or to connect with other users for social or professional networking. These platforms facilitate the creation and exchange of user-generated content, communication, and interaction among individuals or groups, often on a large scale;

"victim" means:

(a) in relation to section 14, an individual who is the target of a posted digital communication; and

(b) in relation to section 15, an individual who is the subject of an intimate visual recording.

(2) An intimate visual recording is a visual recording (for example, a photograph, videotape, or digital image) that is made in any medium using any device with or without the knowledge or consent of an individual who is the subject of the recording, and that is of:

(a) the individual who is in a place which, in the circumstances, would reasonably be expected to provide privacy, and the individual is:

(i) naked or has his or her genitals, pubic area, buttocks, or female breasts exposed, partially exposed, or wearing only undergarments; or

(ii) engaged in an intimate sexual activity; or

(iii) engaged in showering, toileting, or other personal bodily activity that involves dressing or undressing; or

(b) the individual's naked or partly covered genitals, pubic area, buttocks, or female breasts which is made:

(i) from beneath or under an individual's clothing; or

(ii) through an individual's outer clothing in circumstances where it is unreasonable to do so.

(3) An intimate visual recording includes a recording that is made and transmitted in real time without retention or storage in:

(a) a physical form; or

(b) an electronic form,

from which the recording is capable of being reproduced with or without the aid of any device or thing.

2. Communication Principles

(1) A person who performs any functions or exercises any powers under this Act must:

(a) consider the Communication Principles: and

(b) act consistently with the rights and freedoms under the Constitution of the Republic of Vanuatu.

(2) A digital communication must not do all or any of the following:

(a) disclose sensitive personal facts about an individual;

(aa) disclose pornographic content;

(ab) allow access to pornographic content;

(ac) allow for the distribution of pornographic content;

(ad) expose a minor to pornographic content;

(b) be abusive, threatening, intimidating, or menacing;

(c) be offensive to a reasonable person in the position of the affected individual;

(d) be indecent or obscene;

(e) be used to harass an individual;

(f) make a false or misleading allegation;

(g) publish a matter that is in breach of confidence;

(h) incite or encourage anyone to send a message to an individual for the purpose of causing harm to the individual;

(i) incite or encourage an individual to commit suicide;

(j) denigrate an individual by reason of his or her colour, race, ethnic, island or national origins, political affiliation, religion, gender, sexual orientation, or disability.

(3) In addition to subsection (2), a person must not create or use a fake ID to perform a digital communication.

PART 2 – PROCEEDINGS FOR HARMFUL DIGITAL COMMUNICATIONS IN THE MAGISTRATES COURT

Division 1 – Proceedings for harmful digital communications in the Magistrates Court

3. Proceedings

(1) A person may apply to the Magistrates Court for an order under section 10 or 11.

(2) An application may be made by:

(a) an individual (the affected individual) who alleges that he or she has suffered or will suffer harm as a result of a digital communication; or

(b) a parent or guardian on behalf of the affected individual; or

(c) the principal of a school if the affected individual is a student of that school and consents to the principal bringing the proceedings; or

(d) a police officer if the digital communication constitutes a threat to the safety of an individual; or

(e) any other person prescribed by the Regulations.

4. Requirements for the proceedings

(1) The Magistrates Court must not grant an application unless it is satisfied that:

(a) there has been a breach of the Communication Principles; and

(b) the breach has caused or is likely to cause harm to the individual.

(2) The Magistrates Court may dismiss an application under subsection 3(1):

(a) if it considers for a person under paragraph 3(2)(a), (b), (c) or (e) that the application is frivolous or vexatious, or for any other reason does not meet the requirements under this section; and

(b) if it is satisfied for a person under paragraph 3(2)(d), after having regard to all the circumstances of the case, that the application must be dismissed.

(3) The Magistrates Court may make an order that any proceeding under this Act is to be heard, in whole or in part, in closed court if the Court considers that it is in the interests of justice.

5. Magistrates Court may refer matter back to the Deputy Commissioner

The Magistrates Court, in considering an application under section 3:

(a) must consider whether an attempt has been made to resolve the complaint, whether through mediation or otherwise; and

(b) may adjourn the proceedings and refer the matter back to the Deputy Commissioner unless satisfied that attempts at resolution, or further attempts at resolution, of the matter by the parties and the Deputy Commissioner are likely:

(i) not to contribute constructively to resolving the matter; or

(ii) not in the circumstances to be in the public interest; or

(iii) to undermine the proceedings before the Court.

6. Magistrates Court may require Deputy Commissioner to provide information

(1) The Magistrates Court may require the Deputy Commissioner to provide information for the purposes of satisfying the Court of any matters referred to in sections 4 and 5.

(2) The Deputy Commissioner must provide the information in the form prescribed by the rules of court.

Division 2 – Applications

7. Applications

(1) An application to the Magistrates Court for an order under section 10 or 11 must be filed in the Court and be in the prescribed form.

(2) The Magistrates Court may give directions as to service and, if the Court considers it appropriate to do so in the circumstances, consider an application made on a without notice basis.

(3) A filing fee is not payable for an application.

8. Mode of hearing and evidence

(1) The Magistrates Court may, having regard to the circumstances of a particular case, direct that an application be determined:

(a) on the basis only of written material provided to it; or

(b) by way of a hearing involving oral submissions; or

(c) in such other way as the Court determines.

(2) The Magistrates Court may deal with an application in any manner that it considers will preserve the anonymity of a party so that the party's identity is not released to any other party during the proceedings.

(3) The Magistrates Court may receive any evidence or information that may in its opinion, assist it in dealing effectively with any proceedings under this Act, whether or not the evidence or information would be otherwise admissible in a court of law.

(4) An applicant may appeal against a decision of the Magistrates Court in accordance with section 30 of the Judicial Services and Courts Act [CAP 270].

Division 3 – Technical Advisers

9. Technical advisers

(1) The Commission must maintain a panel of persons who may be approved as technical advisers, and only persons named on the panel may be approved as technical advisers.

(2) A technical adviser may be appointed to the panel for up to 5 years, and the appointment continues until:

(a) the person is reappointed; or

(b) a successor to the person is appointed; or

(c) the person is informed in writing by the Commission that he or she is not to be reappointed and that a successor to that person is not to be appointed; or

(d) the person resigns by notice in writing to the Commission; or

(e) the person is removed from the panel by the Commission for incapacity that affects the person's performance of duty, for neglect of duty, or for misconduct, proved to the satisfaction of the Commission; or

(f) the person dies.

(3) The Commission is to determine the remuneration and allowances of the technical advisers.

Division 4 – Orders

10. Interim Order

(1) The Magistrates Court may grant any interim orders pending the determination of the application for orders under section 11.

(2) An interim order under this section may do anything that may be done by order under section 11 and expires when the application under that section is determined.

11. Orders that may be made by the Magistrates Court

(1) The Magistrates Court may, on an application, make all or any of the following orders against a defendant:

(a) an order to remove or disable material;

(b) an order that the defendant cease or refrain from the conduct concerned;

(c) an order that the defendant must not encourage any other person to engage in similar communications towards the affected individual;

(d) an order that a correction be published;

(e) an order that a right of reply be given to the affected individual;

(f) an order that an apology be published;

(g) any other order that the Court considers appropriate.

(2) The Magistrates Court may, on an application, make all or any of the following orders against an online content host:

(a) an order to remove or disable public access to material that has been posted or sent;

(b) an order that the identity of the author of an anonymous or pseudonymous communication be released to the Court;

(c) an order that a correction be published in any manner that the Court specifies in the order;

(d) an order that a right of reply be given to the affected individual in any manner that the Court specifies in the order.

(2A) The Magistrates Court may, on an application, make an order against an internet service provider to restrict access to a pornographic website.

(2B) The Magistrates Court may, on an application, make all or any of the following orders against an online content administrator or social media platform:

(a) to ban access to pornographic contents;

(b) to ban the use of fake IDs.

(3) The Magistrates Court may, on an application, make an order against an internet protocol address provider that the identity of an anonymous communicator be released to the Court.

(4) The Magistrates Court may do all or any of the following:

(a) make a direction applying an order provided for in subsection (1), (2), (2A) or (2B) to other persons specified in the direction, if there is evidence that those other persons have been encouraged to engage in harmful digital communications towards the affected individual;

(b) make a declaration that a communication breaches a Communication Principle;

(c) make an order that the names of any specified parties be suppressed.

(5) In deciding whether or not to make an order under this section, the Magistrates Court must take into account:

(a) the content of the communication and the level of harm caused or likely to be caused by it; and

(b) the purpose of the communication, in particular whether the communication was intended to cause harm; and

(c) the occasion, context, and subject matter of the communication; and

(d) the extent to which the communication has spread beyond the original parties to the communication; and

(e) the age and vulnerability of the affected individual; and

(f) the truth or falsity of the statement; and

(g) whether the communication is in the public interest; and

(h) the conduct of the defendant, including any attempt by the defendant to minimise the harm caused; and

(i) the conduct of the affected individual or complainant; and

(j) the technical and operational practicalities, and the costs, of an order; and

(k) the appropriate individual or other person who should be subject to the order.

12. Magistrates Court may vary or discharge order

(1) Any applicant who obtains an order under section 10, 11 or 16 or any other party to that order may apply for an order in subsection (2).

(2) The Magistrates Court may, by order, do all or any of the following things to an order made under section 10, 11 or 16:

(a) vary the duration of the order;

(b) vary any conditions of the order;

(c) discharge the order.

PART 3 – OFFENCES

13. Offence of non-compliance with order

If a person, without reasonable excuse, fails to comply with an order made under section 10, 11 or 16, the person commits an offence punishable on conviction:

(a) in the case of an individual – to a fine not exceeding VT500,000 or by imprisonment to a term not exceeding 6 months, or to both; or

(b) in the case of a body corporate – to a fine not exceeding VT1,000,000.

14. Causing harm by posting digital communication

(1) If:

(a) a person posts a digital communication with the intention that it cause harm to a victim; and

(b) posting the communication causes harm to the victim,

the person commits an offence punishable on conviction by the penalty set out in subsection (2).

(2) The penalty is:

(a) in the case of an individual – to a fine not exceeding VT500,000 or by imprisonment to a term not exceeding 2 years, or to both; or

(b) in the case of a body corporate – to a fine not exceeding VT1,000,000.

(3) In determining whether a post causes harm, the court may take into account any factors it considers relevant, including:

(a) the extremity of the language used;

(b) the age and characteristics of the victim;

(c) whether the digital communication was anonymous;

(d) whether the digital communication was repeated;

(e) the extent of circulation of the digital communication;

(f) whether the digital communication is true or false;

(g) the context in which the digital communication appeared.

(4) This section does not apply if the posted digital communication is an intimate visual recording to which the offence in section 15 applies.

15. Posting intimate visual recording without consent

(1) If a person, without reasonable excuse, posts a digital communication that is an intimate visual recording of a victim:

(a) knowing that the victim has not consented to the posting; or

(b) being reckless as to whether the victim has consented to the posting,

the person commits an offence punishable on conviction by the penalty set out in subsection (2).

(2) The penalty is:

(a) in the case of an individual – to a fine not exceeding VT500,000 or by imprisonment to a term not exceeding 2 years, or to both; or

(b) in the case of a body corporate – to a fine not exceeding VT1,000,000.

(3) An individual under the age of 16 years cannot consent to the posting of an intimate visual recording of which he or she is the subject.

15A. Causing harm by creating or distributing or posting pornographic content

If a person creates or distributes or posts pornographic content, the person commits an offence punishable on conviction:

(a) in the case of an individual – to a fine not exceeding VT2,000,000 or by imprisonment to a term not exceeding 3 years, or to both; or

(b) in the case of a body corporate – to a fine not exceeding VT5,000,000.

15B. Exposing a minor to pornographic content

If a person exposes a minor to a pornographic content, the person commits an offence punishable on conviction:

(a) in the case of an individual – to a fine not exceeding VT2,000,000 or by imprisonment to a term not exceeding 3 years, or to both; or

(b) in the case of a body corporate – to a fine not exceeding VT5,000,000.

15C. Causing harm by creating and using fake ID

A person who intentionally or without lawful excuse creates and uses a fake ID to cause harm or creates and uses a fake ID to digitally impersonate a person to cause harm, commits an offence punishable on conviction:

(a) in the case of an individual – to a fine not exceeding VT2,000,000 or by imprisonment to a term not exceeding 3 years, or to both; or

(b) in the case of a body corporate – to a fine not exceeding VT5,000,000.

16. Civil orders may be made during proceedings for offence under section 15

(1) On application made under this section and if the court considers it desirable to do so, the court conducting the proceedings for an offence under section 15 may make:

(a) during the proceedings, all or any of the interim orders set out in subsection (2) against the defendant for the duration of the proceedings; and

(b) if the defendant is proven to have committed the offence, all or any of the orders set out in subsection (3) against the defendant.

(2) Without limiting paragraph (1)(a), the court may make all or any of the following interim orders:

(a) an order to remove or disable material;

(b) an order that the defendant cease or refrain from the conduct concerned;

(c) an order that the defendant not encourage any other persons to engage in similar communications towards the affected individual.

(3) Without limiting paragraph (1)(b), the court may make all or any of the following interim orders:

(a) an order to remove or disable material;

(b) an order that the defendant cease or refrain from the conduct concerned;

(c) an order that the defendant not encourage any other persons to engage in similar communications towards the affected individual;

(d) an order that a correction be published;

(e) an order that a right of reply be given to the affected individual;

(f) an order that an apology be published.

PART 4 – LIABILITY OF ONLINE CONTENT HOST

17. Process for obtaining protection against liability for specific content

(1) Civil or criminal proceedings may not be brought against an online content host if the online content host:

(a) receives a notice of complaint about a specific content; and

(b) complies with the requirements in subsection (2).

(2) The requirements that the online content host must do, as soon as practicable but no later than 48 hours after receiving a notice of complaint:

(a) provide the author of the specific content with a copy of the notice of complaint, altered to conceal personal information that identifies the complainant if the host has received confirmation that the complainant does not consent to the host providing that information to the author; and

(b) notify the author that the author may submit a counter-notice to the host within 48 hours after receiving that notification.

(3) If the host is unable to contact the author after taking reasonable steps to do so, the host must remove or disable the specific content as soon as practicable after taking those steps but not later than 48 hours after receiving a notice of complaint.

(4) If the author submits a valid counter-notice in which the author consents to the removal of the specific content, the host must remove or disable the specific content as soon as practicable after receiving that counter-notice.

(5) If the author submits a valid counter-notice in which the author refuses to consent to the removal of the specific content, the host must:

(a) leave the specific content in place; and

(b) as soon as practicable after receiving that counter-notice, notify the complainant of the author's decision; and

(c) if the author consents, provide the complainant with personal information that identifies the author.

(6) If the author does not submit a valid counter-notice, the host must remove or disable the specific content as soon as practicable but no later than 48 hours after notifying the author under subsection (2).

(7) A notice of complaint must:

(a) state the complainant's name and a telephone number, a physical address, and an email address for the complainant; and

(b) state the specific content, and explain why the complainant considers that the specific content is unlawful or breaches 1 or more Communication Principles and has caused harm; and

(c) provide sufficient details to enable the specific content to be readily located; and

(d) state whether the complainant consents to personal information that identifies the complainant being released to the author; and

(e) contain any other information that the complainant considers relevant.

(8) A counter-notice must state:

(a) the author's name and a telephone number, a physical address, and an email address for the author; and

(b) whether the author consents to personal information that identifies the author being released to the complainant; and

(c) whether the author consents to the removal of the specific content.

(9) An online content host must not disclose any personal information about the complainant or author except by order of a Magistrate made on an application under this subsection.

18. Further provisions related to section 17

(1) The Deputy Commissioner may lodge a notice of complaint under section 17 on behalf of a complainant and provide advice and assistance to the complainant in relation to the complaint.

(2) The protection conferred on an online content host by section 17 does not apply if:

(a) the host does not provide an easily accessible mechanism that enables a user to contact the host about specific content in the manner provided in that section; or

(b) the person who provides the specific content does so on behalf, or at the direction, of the online content host.

(3) Nothing in this section limits the right of an individual to injunctive relief in relation to the content of a digital communication posted by another person and hosted by the online content host.

PART 5 – MISCELLANEOUS PROVISIONS

19. Report to the Authority

(1) The Deputy Commissioner must, within 3 months after the end of each year , provide a report to the Authority on:

(a) the general administration of this Act; and

(b) the activities of the Deputy Commissioner for that year.

(2) The annual report must also include:

(a) the number of complaints made to the Deputy Commissioner and the nature of those complaints; and

(b) the number of complaints resolved, deferred, or refused.

20. Regulations

The Minister may, on the recommendation of the Commission after receiving advice from the Deputy Commissioner, make Regulations prescribing all matters:

(a) required or permitted by this Act to be prescribed; or

(b) that are necessary or convenient to be prescribed for the carrying out or giving effect to the provisions of this Act.

Table of Amendments

1	*Amended by Act 8 of 2025*
2(2)(aa) – (ad)	*Inserted by Act 8 of 2025*
2(3)	*Inserted by Act 8 of 2025*
11(2A), (2B)	*Inserted by Act 8 of 2025*
11(4)(a)	*Amended by Act 8 of 2025*
15A – 15C	*Inserted by Act 8 of 2025*