

CRIME AND COURTS ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Courts and Justice

Section 41: Meaning of “relevant publisher”

481. **Section 41** sets out to whom the provisions in sections 34 to 40 are to apply, subject to the exclusions contained within Schedule 15. A number of elements make up the definition in order to establish who is covered by the “relevant publisher” test. *Subsection (1)* provides that a relevant publisher is a person publishing news-related material (defined by section 42) as part of their business, whether or not that business is carried on with a view to making a profit. The material must be written by different authors and be subject to some degree of editorial control. Editorial control is defined in *subsection (2)*, which provides that editorial control is exercised if a person, whether the publisher, or another person, such as an employee, has editorial or equivalent responsibility for the content of the material, how that material is to be presented, and whether to publish it. *Subsections (3) and (4)* provide that, in relation to a website, a publisher is not to be considered as exercising editorial responsibility if they did not post the relevant material to the website themselves, or if they only exercise moderation functions over such material. This definition therefore excludes single author bloggers, tweeters, news aggregators, social networking sites, website moderators and moderated forums. There are then a series of express exclusions from this test. *Subsections (5) and (6)* provide that, notwithstanding a publisher may fall within the provisions of subsection (1), they will not be regarded as a relevant publisher if either they are specified by name in Schedule 15, or their publication of news-related material falls within the category or case of a person set out in that Schedule.