



# Criminal Justice and Police Act 2001

## 2001 CHAPTER 16

### PART 1

#### PROVISIONS FOR COMBATTING CRIME AND DISORDER

### CHAPTER 3

#### OTHER PROVISIONS FOR COMBATTING CRIME AND DISORDER

##### *Travel restrictions on drug trafficking offenders*

### **33 Power to make travel restriction orders**

- (1) This section applies where—
- (a) a person (“the offender”) has been convicted by any court of a post-commencement drug trafficking offence;
  - (b) the court has determined that it would be appropriate to impose a sentence of imprisonment for that offence; and
  - (c) the term of imprisonment which the court considers appropriate is a term of four years or more.
- (2) It shall be the duty of the court, on sentencing the offender—
- (a) to consider whether it would be appropriate for the sentence for the offence to include the making of a travel restriction order in relation to the offender;
  - (b) if the court determines that it is so appropriate, to make such travel restriction order in relation to the offender as the court thinks suitable in all the circumstances (including any other convictions of the offender for post-commencement drug trafficking offences in respect of which the court is also passing sentence); and
  - (c) if the court determines that it is not so appropriate, to state its reasons for not making a travel restriction order.

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- (3) A travel restriction order is an order that prohibits the offender from leaving the United Kingdom at any time in the period which—
- (a) begins with the offender’s release from custody; and
  - (b) continues after that time for such period of not less than two years as may be specified in the order.
- (4) A travel restriction order may contain a direction to the offender to deliver up, or cause to be delivered up, to the court any [<sup>F1</sup>UK passport] held by him; and where such a direction is given, the court shall send [<sup>F2</sup>any passport] delivered up in pursuance of the direction to the Secretary of State at such address as the Secretary of State may determine.
- (5) Where the offender’s [<sup>F3</sup>passport] is held by the Secretary of State by reason of the making of any direction contained in a travel restriction order, the Secretary of State (without prejudice to any other power or duty of his to retain the [<sup>F3</sup>passport])—
- (a) may retain it for so long as the prohibition imposed by the order applies to the offender, and is not for the time being suspended; and
  - (b) shall not return the [<sup>F3</sup>passport] after the prohibition has ceased to apply, or when it is suspended, except where the [<sup>F3</sup>passport] has not expired and an application for its return is made to him by the offender.
- (6) In this section “post-commencement”—
- (a) except in relation to an offence that is a drug trafficking offence by virtue of an order under section 34(1)(c), means committed after the coming into force of this section; and
  - (b) in relation to an offence that is a drug trafficking offence by virtue of such an order, means committed after the coming into force of that order.
- (7) References in this section to the offender’s release from custody are references to his first release from custody after the imposition of the travel restriction order which is neither—
- (a) a release on bail; nor
  - (b) a temporary release for a fixed period.
- [<sup>F4</sup>(8) In this section “UK passport” means a United Kingdom passport within the meaning of the Immigration Act 1971 (see section 33(1)).]

#### Textual Amendments

- F1** Words in s. 33(4) substituted (21.1.2011) by [Identity Documents Act 2010 \(c. 40\)](#), s. 14(2), **Sch. para. 16(2)(a)**
- F2** Words in s. 33(4) substituted (21.1.2011) by [Identity Documents Act 2010 \(c. 40\)](#), s. 14(2), **Sch. para. 16(2)(b)**
- F3** Word in s. 33(5) substituted (21.1.2011) by [Identity Documents Act 2010 \(c. 40\)](#), s. 14(2), **Sch. para. 16(3)**
- F4** S. 33(8) substituted (21.1.2011) by [Identity Documents Act 2010 \(c. 40\)](#), s. 14(2), **Sch. para. 16(4)**

### 34 Meaning of “drug trafficking offence”

- (1) In section 33 “drug trafficking offence” means any of the following offences (including one committed by aiding, abetting, counselling or procuring)—

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- (a) an offence under section 4(2) or (3) of the Misuse of Drugs Act 1971 (c. 38) (production and supply of controlled drugs);
  - (b) an offence under section 20 of that Act (assisting in or inducing commission outside United Kingdom of an offence punishable under a corresponding law);
  - (c) any such other offence under that Act as may be designated by order made by the Secretary of State;
  - (d) an offence under—
    - (i) section 50(2) or (3) of the Customs and Excise Management Act 1979 (c. 2) (improper importation),
    - (ii) section 68(2) of that Act (exportation), or
    - (iii) section 170 of that Act (fraudulent evasion),in connection with a prohibition or restriction on importation or exportation having effect by virtue of section 3 of the Misuse of Drugs Act 1971 (c. 38);
  - (e) an offence under section 1 of the Criminal Law Act 1977 (c. 45) or Article 9 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (S.I. 1983 1120 (N.I. 13)), or in Scotland at common law, of conspiracy to commit any of the offences in paragraphs (a) to (d) above;
  - (f) an offence under section 1 of the Criminal Attempts Act 1981 (c. 47) or Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983, or in Scotland at common law, of attempting to commit any of those offences; and
  - (g) an offence under section 19 of the Misuse of Drugs Act 1971 (c. 38) or at common law of inciting another person to commit any of those offences.
- (2) The power to make an order under subsection (1)(c) shall be exercisable by statutory instrument; and no such order shall be made unless a draft of it has been laid before Parliament and approved by a resolution of each House.
- (3) An order under subsection (1)(c) may provide, in relation to any offence designated by such an order, that it is to be treated as so designated only—
- (a) for such purposes, and
  - (b) in cases where it was committed in such manner or in such circumstances, as may be described in the order.

**Modifications etc. (not altering text)**

**C1** S. 34(1)(g) modified (E.W. N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), **Sch. 6 para. 41** (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), art. 2(a)

### **35 Revocation and suspension of a travel restriction order**

- (1) Subject to the following provisions of this section, the court by which a travel restriction order has been made in relation to any person under section 33 may—
- (a) on an application made by that person at any time which is—
    - (i) after the end of the minimum period, and
    - (ii) is not within three months after the making of any previous application for the revocation of the prohibition,revoke the prohibition imposed by the order with effect from such date as the court may determine; or

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- (b) on an application made by that person at any time after the making of the order, suspend the prohibition imposed by the order for such period as the court may determine.
- (2) A court to which an application for the revocation of the prohibition imposed on any person by a travel restriction order is made shall not revoke that prohibition unless it considers that it is appropriate to do so in all the circumstances of the case and having regard, in particular, to—
- (a) that person’s character;
  - (b) his conduct since the making of the order; and
  - (c) the offences of which he was convicted on the occasion on which the order was made.
- (3) A court shall not suspend the prohibition imposed on any person by a travel restriction order for any period unless it is satisfied that there are exceptional circumstances, in that person’s case, that justify the suspension on compassionate grounds of that prohibition for that period.
- (4) In making any determination on an application for the suspension of the prohibition imposed on any person by a travel restriction order, a court (in addition to considering the matters mentioned in subsection (3)) shall have regard to—
- (a) that person’s character;
  - (b) his conduct since the making of the order;
  - (c) the offences of which he was convicted on the occasion on which the order was made; and
  - (d) any other circumstances of the case that the court considers relevant.
- (5) Where the prohibition imposed on any person by a travel restriction order is suspended, it shall be the duty of that person—
- (a) to be in the United Kingdom when the period of the suspension ends; and
  - (b) if the order contains a direction under section 33(4), to surrender, before the end of that period, any [<sup>F5</sup>passport] returned or issued to that person, in respect of the suspension, by the Secretary of State;
- and a [<sup>F5</sup>passport] that is required to be surrendered under paragraph (b) shall be surrendered to the Secretary of State in such manner or by being sent to such address as the Secretary of State may direct at the time when he returns or issues it.
- (6) Where the prohibition imposed on any person by a travel restriction order is suspended for any period under this section, the end of the period of the prohibition imposed by the order shall be treated (except for the purposes of subsection (7)) as postponed (or, if there has been one or more previous suspensions, further postponed) by the length of the period of suspension.
- (7) In this section “the minimum period”—
- (a) in the case of a travel restriction order imposing a prohibition for a period of four years or less, means the period of two years beginning at the time when the period of the prohibition began;
  - (b) in the case of a travel restriction order imposing a prohibition of more than four years but less than ten years, means the period of four years beginning at that time; and
  - (c) in any other case, means the period of five years beginning at that time.

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#### Textual Amendments

**F5** Word in s. 35 substituted (21.1.2011) by [Identity Documents Act 2010 \(c. 40\), s. 14\(2\)](#), [Sch. para. 17](#)

### 36 Offences of contravening orders

- (1) A person who leaves the United Kingdom at a time when he is prohibited from leaving it by a travel restriction order is guilty of an offence and liable—
  - (a) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
- (2) A person who is not in the United Kingdom at the end of a period during which a prohibition imposed on him by a travel restriction order has been suspended shall be guilty of an offence and liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
- (3) A person who fails to comply with—
  - (a) a direction contained in a travel restriction order to deliver up a [<sup>F6</sup>passport] to a court, or to cause such a [<sup>F6</sup>passport] to be delivered up, or
  - (b) any duty imposed on him by section 35(5)(b) to surrender a [<sup>F6</sup>passport] to the Secretary of State,shall be guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.
- (4) This section has effect subject to section 37(3).

#### Textual Amendments

**F6** Word in s. 36 substituted (21.1.2011) by [Identity Documents Act 2010 \(c. 40\), s. 14\(2\)](#), [Sch. para. 17](#)

### 37 Saving for powers to remove a person from the United Kingdom

- (1) A travel restriction order made in relation to any person shall not prevent the exercise in relation to that person of any prescribed removal power.
- (2) A travel restriction order made in relation to any person shall remain in force, notwithstanding the exercise of any prescribed removal power in relation to that person, except in so far as either—
  - (a) the Secretary of State by order otherwise provides; or
  - (b) the travel restriction order is suspended or revoked under section 35.
- (3) No person shall be guilty of an offence under section 36 in respect of any act or omission required of him by an obligation imposed in the exercise of a prescribed removal power.

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- (4) In this section “a prescribed removal power” means any such power conferred by or under any enactment as—
  - (a) consists in a power to order or direct the removal of a person from the United Kingdom; and
  - (b) is designated for the purposes of this section by an order made by the Secretary of State.
- (5) An order under subsection (2)(a) or (4) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) An order under subsection (2)(a)—
  - (a) may make different provision for different cases; and
  - (b) may contain such incidental, supplemental, consequential and transitional provision as the Secretary of State thinks fit.
- (7) References in this section to a person’s removal from the United Kingdom include references to his deportation, extradition, repatriation, delivery up or other transfer to a place outside the United Kingdom.

**Commencement Information**

**II** S. 37 wholly in force at 1.4.2002; s. 37 not in force at Royal Assent see s. 138; s. 37 in force for certain purposes at 19.6.2001 by S.I. 2001/2223, art. 2(2)(b); s. 37 in force at 1.4.2002 insofar as not already in force by S.I. 2002/344, art. 3 (with art. 4)

*Use of controlled drugs*

**38** .....

F7 .....

**Textual Amendments**

**F7** S. 38 repealed (1.9.2005) by Drugs Act 2005 (c. 17), ss. 23, 24, Sch. 1 para. 6, Sch. 2; S.I. 2005/2223, art. 2

*Intimidating, harming and threatening witnesses etc.*

**39 Intimidation of witnesses**

- (1) A person commits an offence if—
  - (a) he does an act which intimidates, and is intended to intimidate, another person (“the victim”);
  - (b) he does the act—
    - (i) knowing or believing that the victim is or may be a witness in any relevant proceedings; and
    - (ii) intending, by his act, to cause the course of justice to be obstructed, perverted or interfered with;

and

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- (c) the act is done after the commencement of those proceedings.
- (2) For the purposes of subsection (1) it is immaterial—
- (a) whether or not the act that is done is done in the presence of the victim;
  - (b) whether that act is done to the victim himself or to another person; and
  - (c) whether or not the intention to cause the course of justice to be obstructed, perverted or interfered with is the predominating intention of the person doing the act in question.
- (3) If, in proceedings against a person for an offence under this section, it is proved—
- (a) that he did any act that intimidated, and was intended to intimidate, another person, and
  - (b) that he did that act knowing or believing that that other person was or might be a witness in any relevant proceedings that had already commenced,
- he shall be presumed, unless the contrary is shown, to have done the act with the intention of causing the course of justice to be obstructed, perverted or interfered with.
- (4) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both;
  - (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both.
- (5) References in this section to a witness, in relation to any proceedings, include references to a person who provides, or is able to provide, any information or any document or other thing which might be used as evidence in those proceedings or which (whether or not admissible as evidence in those proceedings)—
- (a) might tend to confirm evidence which will be or might be admitted in those proceedings;
  - (b) might be referred to in evidence given in those proceedings by another witness; or
  - (c) might be used as the basis for any cross examination in the course of those proceedings.
- (6) References in this section to doing an act include references to issuing any threat (whether against a person or his finances or property or otherwise), or making any other statement.
- (7) This section is in addition to, and not in derogation of, any offence subsisting at common law.

#### **40 Harming witnesses etc.**

- (1) A person commits an offence if, in circumstances falling within subsection (2)—
- (a) he does an act which harms, and is intended to harm, another person; or
  - (b) intending to cause another person to fear harm, he threatens to do an act which would harm that other person.
- (2) The circumstances fall within this subsection if—
- (a) the person doing or threatening to do the act does so knowing or believing that some person (whether or not the person harmed or threatened or the person

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- against whom harm is threatened) has been a witness in relevant proceedings;  
and
- (b) he does or threatens to do that act because of that knowledge or belief.
- (3) If, in proceedings against a person for an offence under this section, it is proved that, within the relevant period—
- (a) he did an act which harmed, and was intended to harm, another person, or
- (b) intending to cause another person to fear harm, he threatened to do an act which would harm that other person,
- and that he did the act, or (as the case may be) threatened to do the act, with the knowledge or belief required by paragraph (a) of subsection (2), he shall be presumed, unless the contrary is shown, to have done the act, or (as the case may be) threatened to do the act, because of that knowledge or belief.
- (4) For the purposes of this section it is immaterial—
- (a) whether or not the act that is done or threatened, or the threat that is made, is or would be done or is made in the presence of the person who is or would be harmed or of the person who is threatened;
- (b) whether or not the motive mentioned in subsection (2)(b) is the predominating motive for the act or threat; and
- (c) whether the harm that is done or threatened is physical or financial or is harm to a person or to his property.
- (5) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both.
- (6) In this section “the relevant period”, in relation to an act done, or threat made, with the knowledge or belief that a person has been a witness in any relevant proceedings, means the period that begins with the commencement of those proceedings and ends one year after they are finally concluded.
- (7) References in this section to a witness, in relation to any proceedings, include references to a person who has provided any information or any document or other thing which was or might have been used as evidence in those proceedings or which (whether or not it was admissible as evidence in those proceedings)—
- (a) tended to confirm or might have tended to confirm any evidence which was or could have been given in those proceedings;
- (b) was or might have been referred to in evidence given in those proceedings by another witness; or
- (c) was or might have been used as the basis for any cross examination in the course of those proceedings.
- (8) This section is in addition to, and not in derogation of, any offence subsisting at common law.

#### **41 Relevant proceedings**

- (1) A reference in section 39 or 40 to relevant proceedings is a reference to any proceedings in or before the Court of Appeal, the High Court, the Crown Court or any county court or magistrates’ court which—



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- (a) are not proceedings for an offence; and
  - (b) were commenced after the coming into force of that section.
- (2) For the purposes of any reference in section 39 or 40 or this section to the commencement of any proceedings relevant proceedings are commenced (subject to subsection (5)) at the earliest time at which one of the following occurs—
- (a) an information is laid or application, claim form, complaint, petition, summons or other process made or issued for the purpose of commencing the proceedings;
  - (b) any other step is taken by means of which the subject matter of the proceedings is brought for the first time (whether as part of the proceedings or in anticipation of them) before the court.
- (3) For the purposes of any reference in section 39 or 40 to the time when any proceedings are finally concluded, relevant proceedings are finally concluded (subject to subsection (4))—
- (a) if proceedings for an appeal against, or an application for a review of, those proceedings or of any decision taken in those proceedings are brought or is made, at the time when proceedings on that appeal or application are finally concluded;
  - (b) if the proceedings are withdrawn or discontinued, at the time when they are withdrawn or discontinued; and
  - (c) in any other case, when the court in or before which the proceedings are brought finally disposes of all the matters arising in those proceedings.
- (4) Relevant proceedings shall not be taken to be finally concluded by virtue of subsection (3)(a) where—
- (a) the matters to which the appeal or application relate are such that the proceedings in respect of which it is brought or made continue or resume after the making of any determination on that appeal or application; or
  - (b) a determination made on that appeal or application requires those proceedings to continue or to be resumed.
- (5) Where, after having appeared to be finally concluded, any relevant proceedings continue by reason of—
- (a) the giving of permission to bring an appeal after a fixed time for appealing has expired,
  - (b) the lifting of any stay in the proceedings,
  - (c) the setting aside, without an appeal, of any judgment or order, or
  - (d) the revival of any discontinued proceedings,
- sections 39 and 40 and this section shall have effect as if the proceedings had concluded when they appeared to, but as if the giving of permission, the lifting of the stay, the setting aside of the judgment or order or, as the case may be, the revival of the discontinued proceedings were the commencement of new relevant proceedings.

*Further provision about intimidation etc.*

#### **42 Police directions stopping the harassment etc of a person in his home**

- (1) Subject to the following provisions of this section, a constable who is at the scene may give a direction under this section to any person if—

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- (a) that person is present outside or in the vicinity of any premises that are used by any individual (“the resident”) as his dwelling;
  - (b) that constable believes, on reasonable grounds, that that person is present there for the purpose (by his presence or otherwise) of representing to the resident or another individual (whether or not one who uses the premises as his dwelling), or of persuading the resident or such another individual—
    - (i) that he should not do something that he is entitled or required to do; or
    - (ii) that he should do something that he is not under any obligation to do;
 and
  - (c) that constable also believes, on reasonable grounds, that the presence of that person (either alone or together with that of any other persons who are also present)—
    - (i) amounts to, or is likely to result in, the harassment of the resident; or
    - (ii) is likely to cause alarm or distress to the resident.
- (2) A direction under this section is a direction requiring the person to whom it is given to do all such things as the constable giving it may specify as the things he considers necessary to prevent one or both of the following—
- (a) the harassment of the resident; or
  - (b) the causing of any alarm or distress to the resident.
- (3) A direction under this section may be given orally; and where a constable is entitled to give a direction under this section to each of several persons outside, or in the vicinity of, any premises, he may give that direction to those persons by notifying them of his requirements either individually or all together.
- [<sup>F8</sup>(4) The requirements that may be imposed by a direction under this section include—
- (a) a requirement to leave the vicinity of the premises in question, and
  - (b) a requirement to leave that vicinity and not to return to it within such period as the constable may specify, not being longer than 3 months;
- and (in either case) the requirement to leave the vicinity may be to do so immediately or after a specified period of time.]
- (5) A direction under this section may make exceptions to any requirement imposed by the direction, and may make any such exception subject to such conditions as the constable giving the direction thinks fit; and those conditions may include—
- (a) conditions as to the distance from the premises in question at which, or otherwise as to the location where, persons who do not leave their vicinity must remain; and
  - (b) conditions as to the number or identity of the persons who are authorised by the exception to remain in the vicinity of those premises.
- (6) The power of a constable to give a direction under this section shall not include—
- (a) any power to give a direction at any time when there is a more senior-ranking police officer at the scene; or
  - (b) any power to direct a person to refrain from conduct that is lawful under section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52) (right peacefully to picket a work place);
- but it shall include power to vary or withdraw a direction previously given under this section.

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(7) Any person who knowingly [<sup>F9</sup>fails to comply with a requirement in a direction given to him under this section (other than a requirement under subsection (4)(b))] shall be guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding level 4 on the standard scale, or to both.

[<sup>F10</sup>(7A) Any person to whom a constable has given a direction including a requirement under subsection (4)(b) commits an offence if he—

- (a) returns to the vicinity of the premises in question within the period specified in the direction beginning with the date on which the direction is given; and
- (b) does so for the purpose described in subsection (1)(b).

(7B) A person guilty of an offence under subsection (7A) shall be liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 4 on the standard scale, or to both.

(7C) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the reference in subsection (7B) to 51 weeks is to be read as a reference to 6 months.]

(8) <sup>F11</sup> .....

(9) In this section “dwelling” has the same meaning as in Part 1 of the Public Order Act 1986 (c. 64).

#### Textual Amendments

- F8** S. 42(4) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 127\(2\), 178](#); S.I. 2005/1521, [art. 3\(1\)\(m\)](#) (subject to arts. 3(4)(5))
- F9** Words in s. 42(7) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 127\(3\), 178](#); S.I. 2005/1521, [art. 3\(1\)\(m\)](#) (subject to arts. 3(4)(5))
- F10** S. 42(7A)-(7C) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 127\(4\), 178](#); S.I. 2005/1521, [art. 3\(1\)\(m\)](#) (subject to arts. 3(4)(5))
- F11** S. 42(8) repealed (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 111, 174\(2\), 178, Sch. 7 para. 35\(a\), Sch. 17 Pt. 2](#); S.I. 2005/3495, [art. 2\(1\)](#) (subject to art. 2(2))

#### [<sup>F12</sup>42A Offence of harassment etc. of a person in his home

- (1) A person commits an offence if—
- (a) that person is present outside or in the vicinity of any premises that are used by any individual (“the resident”) as his dwelling;
  - (b) that person is present there for the purpose (by his presence or otherwise) of representing to the resident or another individual (whether or not one who uses the premises as his dwelling), or of persuading the resident or such another individual—
    - (i) that he should not do something that he is entitled or required to do; or
    - (ii) that he should do something that he is not under any obligation to do;
  - (c) that person—
    - (i) intends his presence to amount to the harassment of, or to cause alarm or distress to, the resident; or

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- (ii) knows or ought to know that his presence is likely to result in the harassment of, or to cause alarm or distress to, the resident; and
- (d) the presence of that person—
  - (i) amounts to the harassment of, or causes alarm or distress to, any person falling within subsection (2); or
  - (ii) is likely to result in the harassment of, or to cause alarm or distress to, any such person.
- (2) A person falls within this subsection if he is—
  - (a) the resident,
  - (b) a person in the resident's dwelling, or
  - (c) a person in another dwelling in the vicinity of the resident's dwelling.
- (3) The references in subsection (1)(c) and (d) to a person's presence are references to his presence either alone or together with that of any other persons who are also present.
- (4) For the purposes of this section a person (A) ought to know that his presence is likely to result in the harassment of, or to cause alarm or distress to, a resident if a reasonable person in possession of the same information would think that A's presence was likely to have that effect.
- (5) A person guilty of an offence under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 4 on the standard scale, or to both.
- (6) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the reference in subsection (5) to 51 weeks is to be read as a reference to 6 months.
- (7) In this section “dwelling” has the same meaning as in Part 1 of the Public Order Act 1986.]

#### **Textual Amendments**

**F12** S. 42A inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 126(1)**, 178; S.I. 2005/1521, **art. 3(1)(m)** (subject to [art. 3\(4\)\(5\)](#))

### **43 Malicious communications**

- (1) In subsection (1) of section 1 of the Malicious Communications Act 1988 (c. 27) (offence of sending letters and other articles with intent to cause distress or anxiety)—
  - (a) in paragraph (a), for “letter or other article” there shall be substituted “ letter, electronic communication or article of any description ”; and
  - (b) in paragraph (b), for the word “other article” there shall be substituted “ article or electronic communication ”.
- (2) In subsection (2) of that section (defence of making a threat in the belief that it was a proper way of reinforcing a demand and that there were reasonable grounds for making that demand)—
  - (a) in paragraph (a), for “which he believed he had reasonable grounds for making” there shall be substituted “ made by him on reasonable grounds ”; and

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*Changes to legislation:* There are currently no known outstanding effects for the Criminal Justice and Police Act 2001, Chapter 3. (See end of Document for details)

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- (b) in paragraph (b), after “believed” there shall be inserted “, and had reasonable grounds for believing,”.
- (3) After that subsection there shall be inserted—
  - “(2A) In this section “electronic communication” includes—
    - (a) any oral or other communication by means of a telecommunication system (within the meaning of the Telecommunications Act 1984 (c. 12)); and
    - (b) any communication (however sent) that is in electronic form.”
- (4) In subsection (3) of that section (definition of “send”)—
  - (a) after “delivering” there shall be inserted “ or transmitting ”; and
  - (b) for “or delivered” there shall be substituted “, delivered or transmitted ”.
- (5) In subsection (5) of that section (penalty for offence), for “a fine not exceeding level 4 on the standard scale” there shall be substituted “ imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both ”.
- (6) Subsection (5) does not affect the penalty for an offence committed before the day on which this Act is passed.

#### **44 Collective harrassment**

- (1) In section 7 of the Protection from Harassment Act 1997 (c. 40) (interpretation of sections 1 to 5), there shall be inserted the following subsection—
  - “(3A) A person’s conduct on any occasion shall be taken, if aided, abetted, counselled or procured by another—
    - (a) to be conduct on that occasion of the other (as well as conduct of the person whose conduct it is); and
    - (b) to be conduct in relation to which the other’s knowledge and purpose, and what he ought to have known, are the same as they were in relation to what was contemplated or reasonably foreseeable at the time of the aiding, abetting, counselling or procuring.”
- (2) This section has effect in relation to any aiding, abetting, counselling or procuring that takes place after the coming into force of this section.

#### **<sup>F13</sup>45 Addresses of directors and secretaries of companies**

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##### **Textual Amendments**

**F13** S. 45 repealed (20.1.2007 for specified purposes, 1.10.2009 in so far as not already in force) by [Companies Act 2006 \(c. 46\)](#), s. 1300(2), [Sch. 16](#); [S.I. 2006/3428](#), art. 7(b), [Sch. 3 Pt. 1](#) (with [arts. 68\(2\)](#)); [S.I. 2008/2860](#), art. 4, [Sch. 1 Pt. 1](#) (with [arts. 78Sch. 2](#)) (which transitional provisions in [Sch. 2](#) are amended (1.10.2009) by [S.I. 2009/2476](#), arts. 1(3), 2(3)(4) and by [S.I. 2009/1802](#), arts. 1, 18, [Sch.](#))

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*Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Police Act 2001, Chapter 3. (See end of Document for details)*

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*Advertisements relating to prostitution*

**46 Placing of advertisement relating to prostitution**

- (1) A person commits an offence if—
  - (a) he places on, or in the immediate vicinity of, a public telephone an advertisement relating to prostitution, and
  - (b) he does so with the intention that the advertisement should come to the attention of any other person or persons.
- (2) For the purposes of this section, an advertisement is an advertisement relating to prostitution if it—
  - (a) is for the services of a prostitute, whether male or female; or
  - (b) indicates that premises are premises at which such services are offered.
- (3) In any proceedings for an offence under this section, any advertisement which a reasonable person would consider to be an advertisement relating to prostitution shall be presumed to be such an advertisement unless it is shown not to be.
- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or both.
- (5) In this section—
 

“public telephone” means—

  - (a) any telephone which is located in a public place and made available for use by the public, or a section of the public, and
  - (b) where such a telephone is located in or on, or attached to, a kiosk, booth, acoustic hood, shelter or other structure, that structure; and

“public place” means any place to which the public have or are permitted to have access, whether on payment or otherwise, other than—

  - (a) any place to which children under the age of 16 years are not permitted to have access, whether by law or otherwise, and
  - (b) any premises which are wholly or mainly used for residential purposes.
- (6) <sup>F14</sup> .....

**Textual Amendments**

**F14** S. 46(6) repealed (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), s. 107, [Sch. 8](#); S.I. 2002/2306, [art. 2\(g\)\(iii\)\(j\)](#)

**47 Application of section 46 by order to public structures**

- (1) The Secretary of State may, by order, provide for section 46 to apply in relation to any public structure of a description specified in the order as it applies in relation to a public telephone.
- (2) In this section—
 

“public structure” means any structure that—

  - (a) is provided as an amenity for the use of the public or a section of the public, and

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*Changes to legislation:* There are currently no known outstanding effects for the Criminal Justice and Police Act 2001, Chapter 3. (See end of Document for details)

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(b) is located in a public place; and  
“public place” and “public telephone” have the same meaning as in section 46.

- (3) <sup>F15</sup> .....
- (4) The power to make an order under this section is exercisable by statutory instrument.
- (5) No order may be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

**Textual Amendments**

**F15** S. 47(3) repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 174(2), 178, Sch. 7 para. 35(b), **Sch. 17 Pt. 2**; S.I. 2005/3495, **art. 2(1)** (subject to art. 2(2))

*Local child curfew schemes*

**<sup>F16</sup>48 Extension to older children**

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**Textual Amendments**

**F16** S. 48 repealed (12.1.2009) by Policing and Crime Act 2009 (c. 26), s. 116(6)(b), **Sch. 8 Pt. 13**

**<sup>F17</sup>49 Power for police to make schemes**

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**Textual Amendments**

**F17** S. 49 repealed (12.1.2009) by Policing and Crime Act 2009 (c. 26), s. 116(6)(b), **Sch. 8 Pt. 13**

**Changes to legislation:**

There are currently no known outstanding effects for the Criminal Justice and Police Act 2001, Chapter 3.