



# Protection from Harassment Act 1997

## 1997 CHAPTER 40

An Act to make provision for protecting persons from harassment and similar conduct. [21st March 1997]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *England and Wales*

#### **1 Prohibition of harassment.**

- (1) A person must not pursue a course of conduct—
- which amounts to harassment of another, and
  - which he knows or ought to know amounts to harassment of the other.

- [<sup>F1</sup>(1A) A person must not pursue a course of conduct —
- which involves harassment of two or more persons, and
  - which he knows or ought to know involves harassment of those persons, and
  - by which he intends to persuade any person (whether or not one of those mentioned above)—
    - not to do something that he is entitled or required to do, or
    - to do something that he is not under any obligation to do.]

- (2) For the purposes of this section [<sup>F2</sup>or section 2A(2)(c)], the person whose course of conduct is in question ought to know that it amounts to [<sup>F3</sup> or involves] harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other.

- (3) Subsection (1) [<sup>F4</sup>or (1A)] does not apply to a course of conduct if the person who pursued it shows—
- that it was pursued for the purpose of preventing or detecting crime,

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- (b) that it was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or
- (c) that in the particular circumstances the pursuit of the course of conduct was reasonable.

#### Textual Amendments

- F1** S. 1(1A) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 125(2)(a)**, 178(8); [S.I. 2005/1521](#), art. 3(1)(m)
- F2** Words in s. 1(2) inserted (25.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, **Sch. 9 para. 143(2)** (with s. 97); [S.I. 2012/2075](#), art. 5(d)
- F3** Words in s. 1(2) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 125(2)(b)**, 178(8); [S.I. 2005/1521](#), art. 3(1)(m)
- F4** Words in s. 1(3) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 125(2)(c)**, 178(8); [S.I. 2005/1521](#), art. 3(1)(m)

## 2 Offence of harassment.

- (1) A person who pursues a course of conduct in breach of [<sup>F5</sup>section 1(1) or (1A)] is guilty of an offence.
- (2) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.

<sup>F6</sup>(3) .....

#### Textual Amendments

- F5** Words in s. 2(1) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 125(3)**, 178(8); [S.I. 2005/1521](#), art. 3(1)(m)
- F6** S. 2(3) repealed (1.10.2002) by [2002 c. 30](#), s. 107, **Sch. 8**; [S.I. 2002/2306](#), **art. 2(g)(iii)(e)**

## [<sup>F7</sup>2A Offence of stalking

- (1) A person is guilty of an offence if—
  - (a) the person pursues a course of conduct in breach of section 1(1), and
  - (b) the course of conduct amounts to stalking.
- (2) For the purposes of subsection (1)(b) (and section 4A(1)(a)) a person's course of conduct amounts to stalking of another person if—
  - (a) it amounts to harassment of that person,
  - (b) the acts or omissions involved are ones associated with stalking, and
  - (c) the person whose course of conduct it is knows or ought to know that the course of conduct amounts to harassment of the other person.
- (3) The following are examples of acts or omissions which, in particular circumstances, are ones associated with stalking—
  - (a) following a person,
  - (b) contacting, or attempting to contact, a person by any means,

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- (c) publishing any statement or other material—
    - (i) relating or purporting to relate to a person, or
    - (ii) purporting to originate from a person,
  - (d) monitoring the use by a person of the internet, email or any other form of electronic communication,
  - (e) loitering in any place (whether public or private),
  - (f) interfering with any property in the possession of a person,
  - (g) watching or spying on a person.
- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, or a fine not exceeding level 5 on the standard scale, or both.
- (5) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (4) to 51 weeks is to be read as a reference to six months.
- (6) This section is without prejudice to the generality of section 2.]

#### Textual Amendments

- F7** S. 2A inserted (25.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. **111(1)**, 120 (with s. 97); S.I. 2012/2075, art. 5(a)

### [<sup>F8</sup>2B Power of entry in relation to offence of stalking

- (1) A justice of the peace may, on an application by a constable, issue a warrant authorising a constable to enter and search premises if the justice of the peace is satisfied that there are reasonable grounds for believing that—
- (a) an offence under section 2A has been, or is being, committed,
  - (b) there is material on the premises which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence,
  - (c) the material—
    - (i) is likely to be admissible in evidence at a trial for the offence, and
    - (ii) does not consist of, or include, items subject to legal privilege, excluded material or special procedure material (within the meanings given by sections 10, 11 and 14 of the Police and Criminal Evidence Act 1984), and
  - (d) either—
    - (i) entry to the premises will not be granted unless a warrant is produced, or
    - (ii) the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.
- (2) A constable may seize and retain anything for which a search has been authorised under subsection (1).
- (3) A constable may use reasonable force, if necessary, in the exercise of any power conferred by virtue of this section.

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- (4) In this section “premises” has the same meaning as in section 23 of the Police and Criminal Evidence Act 1984.]

#### Textual Amendments

**F8** S. 2B inserted (25.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 112, 120](#) (with s. 97); S.I. 2012/2075, art. 5(b)

### 3 Civil remedy.

- (1) An actual or apprehended breach of [F<sup>9</sup>section 1(1)] may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question.
- (2) On such a claim, damages may be awarded for (among other things) any anxiety caused by the harassment and any financial loss resulting from the harassment.
- (3) Where—
- (a) in such proceedings the High Court or [F<sup>10</sup>the county] court grants an injunction for the purpose of restraining the defendant from pursuing any conduct which amounts to harassment, and
  - (b) the plaintiff considers that the defendant has done anything which he is prohibited from doing by the injunction,
- the plaintiff may apply for the issue of a warrant for the arrest of the defendant.
- (4) An application under subsection (3) may be made—
- (a) where the injunction was granted by the High Court, to a judge of that court, and
  - (b) where the injunction was granted by [F<sup>10</sup>the county] court, to a judge [F<sup>11</sup>of that] court.
- (5) The judge F<sup>12</sup>... to whom an application under subsection (3) is made may only issue a warrant if—
- (a) the application is substantiated on oath, and
  - (b) the judge F<sup>12</sup>... has reasonable grounds for believing that the defendant has done anything which he is prohibited from doing by the injunction.
- (6) Where—
- (a) the High Court or [F<sup>10</sup>the county] court grants an injunction for the purpose mentioned in subsection (3)(a), and
  - (b) without reasonable excuse the defendant does anything which he is prohibited from doing by the injunction,
- he is guilty of an offence.
- (7) Where a person is convicted of an offence under subsection (6) in respect of any conduct, that conduct is not punishable as a contempt of court.
- (8) A person cannot be convicted of an offence under subsection (6) in respect of any conduct which has been punished as a contempt of court.
- (9) A person guilty of an offence under subsection (6) is liable—

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- (a) on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both.

#### Textual Amendments

- F9** Words in s. 3(1) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 125\(4\), 178\(8\)](#); [S.I. 2005/1521](#), [art. 3\(1\)\(m\)](#)
- F10** Words in s. 3 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(3\)](#), [Sch. 9 para. 39\(a\)](#); [S.I. 2014/954](#), [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), [arts. 3-11](#))
- F11** Words in s. 3(4)(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(3\)](#), [Sch. 9 para. 39\(b\)](#); [S.I. 2014/954](#), [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), [arts. 3-11](#))
- F12** Words in s. 3(5) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(3\)](#), [Sch. 9 para. 39\(c\)](#); [S.I. 2014/954](#), [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), [arts. 3-11](#))

#### Commencement Information

- II** S. 3 wholly in force at 1.9.1998; S. 3 not in force at Royal Assent see s. 15; s. 3(1)(2) in force at 16.6.1997 by [S.I. 1997/1498](#), [art. 2](#); s. 3(3)-(9) in force at 1.9.1998 by [S.I. 1998/1902](#), [art. 2](#)

### <sup>F13</sup>3A Injunctions to protect persons from harassment within section 1(1A)

- (1) This section applies where there is an actual or apprehended breach of section 1(1A) by any person (“ the relevant person ”).
- (2) In such a case—
  - (a) any person who is or may be a victim of the course of conduct in question, or
  - (b) any person who is or may be a person falling within section 1(1A)(c),may apply to the High Court or [<sup>F14</sup>the county court] for an injunction restraining the relevant person from pursuing any conduct which amounts to harassment in relation to any person or persons mentioned or described in the injunction.
- (3) Section 3(3) to (9) apply in relation to an injunction granted under subsection (2) above as they apply in relation to an injunction granted as mentioned in section 3(3)(a).]

#### Textual Amendments

- F13** S. 3A inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 125\(5\), 178\(8\)](#); [S.I. 2005/1521](#), [art. 3\(1\)\(m\)](#)
- F14** Words in s. 3A(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(3\)](#), [Sch. 9 para. 52](#); [S.I. 2014/954](#), [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), [arts. 3-11](#))

## 4 Putting people in fear of violence.

- (1) A person whose course of conduct causes another to fear, on at least two occasions, that violence will be used against him is guilty of an offence if he knows or ought

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to know that his course of conduct will cause the other so to fear on each of those occasions.

- (2) For the purposes of this section, the person whose course of conduct is in question ought to know that it will cause another to fear that violence will be used against him on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause the other so to fear on that occasion.
- (3) It is a defence for a person charged with an offence under this section to show that—
  - (a) his course of conduct was pursued for the purpose of preventing or detecting crime,
  - (b) his course of conduct was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or
  - (c) the pursuit of his course of conduct was reasonable for the protection of himself or another or for the protection of his or another's property.
- (4) A person guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding [<sup>F15</sup>ten years], or a fine, or both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both.
- (5) If on the trial on indictment of a person charged with an offence under this section the jury find him not guilty of the offence charged, they may find him guilty of an offence under section 2 [<sup>F16</sup>or 2A].
- (6) The Crown Court has the same powers and duties in relation to a person who is by virtue of subsection (5) convicted before it of an offence under section 2 [<sup>F17</sup>or 2A] as a magistrates' court would have on convicting him of the offence.

#### Textual Amendments

- F15** Words in s. 4(4)(a) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\), ss. 175\(1\)\(a\), 183\(1\)\(5\)\(e\)](#) (with s. 175(3)); S.I. 2017/399, reg. 2, Sch. para. 35
- F16** Words in s. 4(5) inserted (25.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 143\(3\)\(a\)](#) (with s. 97); S.I. 2012/2075, art. 5(d)
- F17** Words in s. 4(6) inserted (25.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 143\(3\)\(b\)](#) (with s. 97); S.I. 2012/2075, art. 5(d)

#### [<sup>F18</sup>4A Stalking involving fear of violence or serious alarm or distress

- (1) A person ("A") whose course of conduct—
  - (a) amounts to stalking, and
  - (b) either—
    - (i) causes another ("B") to fear, on at least two occasions, that violence will be used against B, or
    - (ii) causes B serious alarm or distress which has a substantial adverse effect on B's usual day-to-day activities,

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is guilty of an offence if A knows or ought to know that A's course of conduct will cause B so to fear on each of those occasions or (as the case may be) will cause such alarm or distress.

- (2) For the purposes of this section A ought to know that A's course of conduct will cause B to fear that violence will be used against B on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause B so to fear on that occasion.
- (3) For the purposes of this section A ought to know that A's course of conduct will cause B serious alarm or distress which has a substantial adverse effect on B's usual day-to-day activities if a reasonable person in possession of the same information would think the course of conduct would cause B such alarm or distress.
- (4) It is a defence for A to show that—
  - (a) A's course of conduct was pursued for the purpose of preventing or detecting crime,
  - (b) A's course of conduct was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or
  - (c) the pursuit of A's course of conduct was reasonable for the protection of A or another or for the protection of A's or another's property.
- (5) A person guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding [<sup>F19</sup>ten years], or a fine, or both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding twelve months, or a fine not exceeding the statutory maximum, or both.
- (6) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference in subsection (5)(b) to twelve months is to be read as a reference to six months.
- (7) If on the trial on indictment of a person charged with an offence under this section the jury find the person not guilty of the offence charged, they may find the person guilty of an offence under section 2 or 2A.
- (8) The Crown Court has the same powers and duties in relation to a person who is by virtue of subsection (7) convicted before it of an offence under section 2 or 2A as a magistrates' court would have on convicting the person of the offence.
- (9) This section is without prejudice to the generality of section 4.]

#### Textual Amendments

- F18** S. 4A inserted (25.11.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. **111(2)**, 120 (with s. 97); S.I. 2012/2075, art. 5(a)
- F19** Words in s. 4A(5)(a) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), ss. **175(1)(b)**, 183(1)(5)(e) (with s. 175(3)); S.I. 2017/399, reg. 2, Sch. para. 35

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## 5 Restraining orders. [<sup>F20</sup>on conviction]

- (1) A court sentencing or otherwise dealing with a person (“the defendant”) convicted of an offence <sup>F21</sup>... may (as well as sentencing him or dealing with him in any other way) make an order under this section.
  - (2) The order may, for the purpose of protecting the victim [<sup>F22</sup>or victims] of the offence, or any other person mentioned in the order, from <sup>F23</sup>... conduct which—
    - (a) amounts to harassment, or
    - (b) will cause a fear of violence,
 prohibit the defendant from doing anything described in the order.
  - (3) The order may have effect for a specified period or until further order.
- [<sup>F24</sup>(3A) In proceedings under this section both the prosecution and the defence may lead, as further evidence, any evidence that would be admissible in proceedings for an injunction under section 3.]
- (4) The prosecutor, the defendant or any other person mentioned in the order may apply to the court which made the order for it to be varied or discharged by a further order.
- [<sup>F25</sup>(4A) Any person mentioned in the order is entitled to be heard on the hearing of an application under subsection (4).]
- (5) If without reasonable excuse the defendant does anything which he is prohibited from doing by an order under this section, he is guilty of an offence.
  - (6) A person guilty of an offence under this section is liable—
    - (a) on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both, or
    - (b) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both.
- [<sup>F26</sup>(7) A court dealing with a person for an offence under this section may vary or discharge the order in question by a further order.]

### Textual Amendments

- F20** Words in s. 5 heading inserted (30.9.2009) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 10 para. 43\(2\)](#); S.I. 2009/2501, art. 2(d)
- F21** Words in s. 5(1) repealed (30.9.2009) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 12\(1\), 60, Schs. 11](#) (with [Sch. 12 para. 5\(1\)](#)); S.I. 2009/2501, art. 2(a)(e)
- F22** Words in s. 5(2) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 125\(6\), 178\(8\)](#); S.I. 2005/1521, art. 3(1)(m)
- F23** Word in s. 5(2) repealed (30.9.2009) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 10 para. 43\(3\), Sch. 11](#) (with [Sch. 12 para. 5\(1\)\(3\)](#)); S.I. 2009/2501, art. 2(d)(e)
- F24** S. 5(3A) inserted (30.9.2009) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 12\(2\), 60](#) (with [Sch. 12 para. 5\(2\)](#)); S.I. 2009/2501, art. 2(a)
- F25** S. 5(4A) inserted (30.9.2009) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 12\(3\), 60](#); S.I. 2009/2501, art. 2(a)
- F26** S. 5(7) inserted (30.9.2009) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 12\(4\), 60](#) (with [Sch. 12 para. 5\(3\)](#)); S.I. 2009/2501, art. 2(a)

### Modifications etc. (not altering text)

- C1** S. 5 modified (30.9.1998) by [1998 c. 37, s. 32\(7\)](#); S.I. 1998/2327, [art. 2\(1\)\(g\)](#)



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- C2** S. 5 modified (11.1.2015) by [The Criminal Justice \(European Protection Order\) \(England and Wales\) Regulations 2014 \(S.I. 2014/3300\)](#), regs. 1(1), **13**
- C3** S. 5 modified (11.1.2015) by [The Criminal Justice \(European Protection Order\) \(England and Wales\) Regulations 2014 \(S.I. 2014/3300\)](#), regs. 1(1), **17(7)**

## [<sup>F27</sup>5A Restraining orders on acquittal

- (1) A court before which a person (“ the defendant ”) is acquitted of an offence may, if it considers it necessary to do so to protect a person from harassment by the defendant, make an order prohibiting the defendant from doing anything described in the order.
- (2) Subsections (3) to (7) of section 5 apply to an order under this section as they apply to an order under that one.
- (3) Where the Court of Appeal allow an appeal against conviction they may remit the case to the Crown Court to consider whether to proceed under this section.
- (4) Where—
  - (a) the Crown Court allows an appeal against conviction, or
  - (b) a case is remitted to the Crown Court under subsection (3),the reference in subsection (1) to a court before which a person is acquitted of an offence is to be read as referring to that court.
- (5) A person made subject to an order under this section has the same right of appeal against the order as if—
  - (a) he had been convicted of the offence in question before the court which made the order, and
  - (b) the order had been made under section 5.]

### Textual Amendments

- F27** S. 5A inserted (30.9.2009) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. **12(5)**, 60; [S.I. 2009/2501](#), art. 2(a)

## 6 Limitation.

In section 11 of the <sup>M1</sup>Limitation Act 1980 (special time limit for actions in respect of personal injuries), after subsection (1) there is inserted—

“(1A) This section does not apply to any action brought for damages under section 3 of the Protection from Harassment Act 1997.”

### Marginal Citations

- M1** 1980 c. 58.

## 7 Interpretation of this group of sections.

- (1) This section applies for the interpretation of sections [<sup>F28</sup>sections 1 to 5A].

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(2) References to harassing a person include alarming the person or causing the person distress.

[<sup>F29</sup>(3) A “course of conduct” must involve—

- (a) in the case of conduct in relation to a single person (see section 1(1)), conduct on at least two occasions in relation to that person, or
- (b) in the case of conduct in relation to two or more persons (see section 1(1A)), conduct on at least one occasion in relation to each of those persons.]

[<sup>F30</sup>(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.]

(4) “Conduct” includes speech.

[<sup>F31</sup>(5) References to a person, in the context of the harassment of a person, are references to a person who is an individual.]

#### Textual Amendments

- F28** Words in s. 7(1) substituted (30.9.2009) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 10 para. 44](#) (with [Sch. 12 para. 5\(3\)](#)); S.I. 2009/2501, art. 2(d)
- F29** S. 7(3) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 125\(7\)\(a\)](#), 178(8); S.I. 2005/1521, art. 3(1)(m)
- F30** S. 7(3A) inserted (1.8.2001) by 2001 c. 16, [s. 44\(1\)\(2\)](#); S.I. 2001/2223, [art. 3\(b\)](#)
- F31** S. 7(5) added (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 125\(7\)\(b\)](#), 178(8); S.I. 2005/1521, art. 3(1)(m)

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

- C4** S. 7 applied (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 230\(1\)](#), 383(2) (with s. 385); S.I. 2009/812, [art. 3\(a\)\(b\)](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

### Scotland

## 8 Harassment.

(1) Every individual has a right to be free from harassment and, accordingly, a person must not pursue a course of conduct which amounts to harassment of another and—

- (a) is intended to amount to harassment of that person; or
- (b) occurs in circumstances where it would appear to a reasonable person that it would amount to harassment of that person.

[<sup>F32</sup>(1A) Subsection (1) is subject to section 8A.]

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- (2) An actual or apprehended breach of subsection (1) may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question; and any such claim shall be known as an action of harassment.
- (3) For the purposes of this section—
  - “conduct” includes speech;
  - “harassment” of a person includes causing the person alarm or distress; anda course of conduct must involve conduct on at least two occasions.
- (4) It shall be a defence to any action of harassment to show that the course of conduct complained of—
  - (a) was authorised by, under or by virtue of any enactment or rule of law;
  - (b) was pursued for the purpose of preventing or detecting crime; or
  - (c) was, in the particular circumstances, reasonable.
- (5) In an action of harassment the court may, without prejudice to any other remedies which it may grant—
  - (a) award damages;
  - (b) grant—
    - (i) interdict or interim interdict;
    - (ii) if it is satisfied that it is appropriate for it to do so in order to protect the person from further harassment, an order, to be known as a “non-harassment order”, requiring the defender to refrain from such conduct in relation to the pursuer as may be specified in the order for such period (which includes an indeterminate period) as may be so specified,but a person may not be subjected to the same prohibitions in an interdict or interim interdict and a non-harassment order at the same time.
- (6) The damages which may be awarded in an action of harassment include damages for any anxiety caused by the harassment and any financial loss resulting from it.
- (7) Without prejudice to any right to seek review of any interlocutor, a person against whom a non-harassment order has been made, or the person for whose protection the order was made, may apply to the court by which the order was made for revocation of or a variation of the order and, on any such application, the court may revoke the order or vary it in such manner as it considers appropriate.

<sup>F33</sup>(8) .....

**Textual Amendments**

**F32** S. 8(1A) inserted (21.7.2011) by [Domestic Abuse \(Scotland\) Act 2011 \(asp 13\)](#), **ss. 1(1), 5(2)**

**F33** S. 8(8) repealed (7.7.2011) by [Damages \(Scotland\) Act 2011 \(asp 7\)](#), s. 19(3), **Sch. 2** (with ss. 17, 19(2)); [S.S.I. 2011/268](#), art. 3 (with art. 4)

[<sup>F34</sup>**8A Harassment amounting to domestic abuse**

- (1) Every individual has a right to be free from harassment and, accordingly, a person must not engage in conduct which amounts to harassment of another and—
  - (a) is intended to amount to harassment of that person; or

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- (b) occurs in circumstances where it would appear to a reasonable person that it would amount to harassment of that person.
- (2) Subsection (1) only applies where the conduct referred to amounts to domestic abuse.
- (3) Subsections (2) to (7) of section 8 apply in relation to subsection (1) as they apply in relation to subsection (1) of that section but with the following modifications—
  - (a) in subsections (2) and (4), the words “course of” are omitted;
  - (b) for subsection (3) there is substituted—
    - “(3) For the purposes of this section—
    - “conduct”—
      - (a) may involve behaviour on one or more than one occasion; and
      - (b) includes—
        - (i) speech; and
        - (ii) presence in any place or area; and
    - “harassment” of a person includes causing the person alarm or distress.”; and
  - (c) in subsection (4)(b), for “pursued” substitute “ engaged in ” . ]

#### Textual Amendments

**F34** S. 8A inserted (S.) (21.7.2011) by [Domestic Abuse \(Scotland\) Act 2011 \(asp 13\)](#), **ss. 1(2), 5(2)**

## 9 Breach of non-harassment order.

- (1) Any person who is <sup>F35</sup>... in breach of a non-harassment order made under section 8 [<sup>F36</sup>or section 8A] is guilty of an offence and liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both such imprisonment and such fine; and
  - (b) on summary conviction, to imprisonment for a period not exceeding six months or to a fine not exceeding the statutory maximum, or to both such imprisonment and such fine.
- (2) A breach of a non-harassment order shall not be punishable other than in accordance with subsection (1).
- [<sup>F37</sup>(3) A constable may arrest without warrant any person he reasonably believes is committing or has committed an offence under subsection (1).
- (4) Subsection (3) is without prejudice to any power of arrest conferred by law apart from that subsection.]

#### Textual Amendments

**F35** Words in s. 9(1) repealed (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 49(2)(a), 89(2)**; [S.S.I. 2003/288](#), art. 2, Sch.

**F36** Words in s. 9(1) inserted (21.7.2011) by [Domestic Abuse \(Scotland\) Act 2011 \(asp 13\)](#), **ss. 1(3), 5(2)**

**F37** S. 9(3) - S. 9(4) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 49(2)(b), 89(2)**; [S.S.I. 2003/288](#), art. 2, Sch.

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## 10 Limitation. **S**

- (1) After section 18A of the <sup>M2</sup>Prescription and Limitation (Scotland) Act 1973 there is inserted the following section—

### “18B Actions of harassment.

- (1) This section applies to actions of harassment (within the meaning of section 8 of the Protection from Harassment Act 1997) which include a claim for damages.
- (2) Subject to subsection (3) below and to section 19A of this Act, no action to which this section applies shall be brought unless it is commenced within a period of 3 years after—
- (a) the date on which the alleged harassment ceased; or
  - (b) the date, (if later than the date mentioned in paragraph (a) above) on which the pursuer in the action became, or on which, in the opinion of the court, it would have been reasonably practicable for him in all the circumstances to have become, aware, that the defender was a person responsible for the alleged harassment or the employer or principal of such a person.
- (3) In the computation of the period specified in subsection (2) above there shall be disregarded any time during which the person who is alleged to have suffered the harassment was under legal disability by reason of nonage or unsoundness of mind.”.
- (2) In subsection (1) of section 19A of that Act (power of court to override time-limits), for “section 17 or section 18 and section 18A” there is substituted “ section 17, 18, 18A or 18B ”.

#### Marginal Citations

M2 1973 c.52.

## 11 Non-harassment order following criminal offence.

After section 234 of the <sup>M3</sup>Criminal Procedure (Scotland) Act 1995 there is inserted the following section—

*“ Non-harassment orders*

### 234A Non-harassment orders.

- (1) Where a person is convicted of an offence involving harassment of a person (“the victim”), the prosecutor may apply to the court to make a non-harassment order against the offender requiring him to refrain from such conduct in relation to the victim as may be specified in the order for such period (which includes an indeterminate period) as may be so specified, in addition to any other disposal which may be made in relation to the offence.

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- (2) On an application under subsection (1) above the court may, if it is satisfied on a balance of probabilities that it is appropriate to do so in order to protect the victim from further harassment, make a non-harassment order.
- (3) A non-harassment order made by a criminal court shall be taken to be a sentence for the purposes of any appeal and, for the purposes of this subsection “order” includes any variation or revocation of such an order made under subsection (6) below.
- (4) Any person who is found to be in breach of a non-harassment order shall be guilty of an offence and liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or to both such imprisonment and such fine; and
  - (b) on summary conviction, to imprisonment for a period not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both such imprisonment and such fine.
- (5) The Lord Advocate, in solemn proceedings, and the prosecutor, in summary proceedings, may appeal to the High Court against any decision by a court to refuse an application under subsection (1) above; and on any such appeal the High Court may make such order as it considers appropriate.
- (6) The person against whom a non-harassment order is made, or the prosecutor at whose instance the order is made, may apply to the court which made the order for its revocation or variation and, in relation to any such application the court concerned may, if it is satisfied on a balance of probabilities that it is appropriate to do so, revoke the order or vary it in such manner as it thinks fit, but not so as to increase the period for which the order is to run.
- (7) For the purposes of this section “harassment” shall be construed in accordance with section 8 of the Protection from Harassment Act 1997.”.

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**Marginal Citations**

M3 1995 c.46.

*General*

**12 National security, etc.**

- (1) If the Secretary of State certifies that in his opinion anything done by a specified person on a specified occasion related to—
  - (a) national security,
  - (b) the economic well-being of the United Kingdom, or
  - (c) the prevention or detection of serious crime,
 and was done on behalf of the Crown, the certificate is conclusive evidence that this Act does not apply to any conduct of that person on that occasion.
- (2) In subsection (1), “specified” means specified in the certificate in question.
- (3) A document purporting to be a certificate under subsection (1) is to be received in evidence and, unless the contrary is proved, be treated as being such a certificate.

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

- C5** S. 12 applied (with modifications) (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 230\(2\), 383\(2\)](#) (with s. 385); [S.I. 2009/812, art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)

### **13 Corresponding provision for Northern Ireland.**

An Order in Council made under paragraph 1(1)(b) of Schedule 1 to the <sup>M4</sup>Northern Ireland Act 1974 which contains a statement that it is made only for purposes corresponding to those of sections 1 to 7 and 12 of this Act—

- (a) shall not be subject to sub-paragraphs (4) and (5) of paragraph 1 of that Schedule (affirmative resolution of both Houses of Parliament), but
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **Marginal Citations**

- M4** 1974 c. 28.

### **14 Extent.**

- (1) Sections 1 to 7 extend to England and Wales only.
- (2) Sections 8 to 11 extend to Scotland only.
- (3) This Act (except section 13) does not extend to Northern Ireland.

### **15 Commencement.**

- (1) Sections 1, 2, 4, 5 and 7 to 12 are to come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (2) Sections 3 and 6 are to come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint.
- (3) Different days may be appointed under this section for different purposes.

#### **Subordinate Legislation Made**

- P1** S. 15(1) power fully exercised (4.6.1997): 16.6.1997 appointed by [S.I. 1997/1418, art. 2](#)
- P2** S. 15(2) power partly exercised (10.6.1997): 16.6.1997 appointed for specified provisions by [S.I. 1997/1498, art. 2](#)
- s. 15(2) power partly exercised (30.7.1998): 1.9.1998 appointed for specified provisions by [S.I. 1998/1902, art. 2](#)

### **16 Short title.**

This Act may be cited as the Protection from Harassment Act 1997.

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**Changes to legislation:**

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