



# 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

*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—
- (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.

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- (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.
- (4) The requirements that may be imposed by a direction under this section include a requirement to leave the vicinity of the premises in question (either 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.
- (7) Any person who knowingly contravenes a direction given to him under this section 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.
- (8) A constable in uniform may arrest without warrant any person he reasonably suspects is committing an offence under this section.
- (9) In this section “dwelling” has the same meaning as in Part 1 of the Public Order Act 1986 (c. 64).

#### **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”.

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- (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
  - (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.

#### **45 Addresses of directors and secretaries of companies**

- (1) The Companies Act 1985 (c. 6) shall be amended as follows.
- (2) After section 723A there shall be inserted—

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### **“723B Confidentiality orders**

- (1) Subject to the provisions of this section, an individual may make an application under this section to the Secretary of State where the condition in subsection (2) is satisfied.
- (2) That condition is that the individual—
  - (a) is or proposes to become a director, secretary or permanent representative of a relevant company; and
  - (b) considers that the availability for inspection by members of the public of particulars of his usual residential address creates, or (if an order is not made under this section) is likely to create, a serious risk that he or a person who lives with him will be subjected to violence or intimidation.
- (3) Where, on an application made by an individual under this section, the Secretary of State is satisfied that the availability for inspection by members of the public of particulars of the individual’s usual residential address creates, or (if an order is not made under this section) is likely to create, a serious risk that the individual, or a person who lives with him, will be subjected to violence or intimidation, he shall make an order under this section (“a confidentiality order”) in relation to him.
- (4) Otherwise, he shall dismiss the application.
- (5) An application under this section shall specify, in relation to each company of which the individual is a director, secretary or permanent representative, an address satisfying such conditions as may be prescribed.
- (6) The Secretary of State shall give the applicant notice of his decision under subsection (3) or (4); and a notice under this subsection shall be given within the prescribed period after the making of the decision and contain such information as may be prescribed.
- (7) Regulations may make provision about applications for confidentiality orders; and the regulations may in particular—
  - (a) require the payment, on the making of an application, of such fees as may be specified in the regulations;
  - (b) make provision about the form and manner in which applications are to be made;
  - (c) provide that applications shall contain such information, and be accompanied by such evidence, as the Secretary of State may from time to time direct.
- (8) Regulations may make provision—
  - (a) about the manner in which determinations are to be made under subsection (3) or (4);
  - (b) for questions to be referred to such persons as the Secretary of State thinks fit for the purposes of such determinations;
  - (c) about the review of such determinations;
  - (d) about the period for which confidentiality orders shall remain in force and the renewal of confidentiality orders.

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- (9) The Secretary of State may at any time revoke a confidentiality order if he is satisfied that such conditions as may be prescribed are satisfied.
- (10) Regulations may make provision about the manner in which a determination under subsection (9) is to be made and notified to the individual concerned.

### **723C Effect of confidentiality orders**

- (1) At any time when a confidentiality order is in force in relation to an individual—
  - (a) section 709(1) shall not apply to so much of any record kept by the registrar as contains information which is recorded as particulars of the individual’s usual residential address that were contained in a document delivered to the registrar after the order came into force;
  - (b) section 364 shall have effect in relation to each affected company of which the individual is a director or secretary as if the reference in subsection (4)(a) of that section to the individual’s usual residential address were a reference to the address for the time being specified by the individual in relation to that company under section 723B(5) or subsection (7) below.
- (2) Regulations may make provision about the inspection and copying of confidential records, and such provision may include—
  - (a) provision as to the persons by whom, and the circumstances in which, confidential records may be inspected or copies taken of such records;
  - (b) provision under which the registrar may be required to provide certified copies of, or of extracts from, such records.
- (3) Provision under subsection (2) may include provision—
  - (a) for persons of a prescribed description to be entitled to apply to the court for authority to inspect or take copies of confidential records;
  - (b) as to the criteria to be used by the court in determining whether an authorisation should be given.
- (4) Regulations may make provision for restricting the persons to whom, and the purposes for which, relevant information may be disclosed.
- (5) In subsection (4) “relevant information” means information, relating to the usual residential address of an individual in relation to whom a confidentiality order is in force, which has been obtained in prescribed circumstances.
- (6) Regulations may—
  - (a) provide that, where a confidentiality order is in force in relation to an individual who is a director or secretary of a company, subsections (3) and (5) of section 288 shall not apply in relation to so much of the register kept by the company under that section as contains particulars of the usual residential address of that individual (“the protected part of the register”); and
  - (b) make provision as to the persons by whom the protected part of the register may be inspected and the conditions (which may include conditions as to the payment of a fee) on which they may inspect it.
- (7) Regulations may make provision—

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- (a) requiring any individual in relation to whom a confidentiality order is in force to specify in the prescribed manner, in relation to each company of which he becomes a director, secretary or permanent representative at a time when the order is in force, an address satisfying such conditions as may be prescribed;
  - (b) as to the manner in which the address specified in relation to a company under section 723B(5) or this subsection may be changed.
- (8) A company is an affected company for the purposes of subsection (1) if—
- (a) it is required to deliver annual returns in accordance with section 363; and
  - (b) the individual has specified an address in relation to it under section 723B(5) or subsection (7) above.

#### **723D Construction of sections 723B and 723C**

- (1) In section 723B “relevant company” means—
  - (a) a company formed and registered under this Act or an existing company; or
  - (b) an overseas company.
- (2) For the purposes of sections 723B and 723C, an individual is a permanent representative of a company if—
  - (a) the company is a company to which section 690A applies; and
  - (b) he is authorised to represent the company as a permanent representative of the company for the business of one or more of its branches in Great Britain.
- (3) In section 723C “confidential records” means so much of any records kept by the registrar for the purposes of the Companies Acts as contains information—
  - (a) which relates to an individual in relation to whom a confidentiality order is in force; and
  - (b) is recorded as particulars of the individual’s usual residential address that were contained in a document delivered to the registrar after the order came into force.
- (4) In sections 723B and 723C—
  - “confidentiality order” means an order under section 723B;
  - “the court” means such court as may be specified in regulations;
  - “director” and “secretary”, in relation to an overseas company, have the same meanings as in Chapter 1 of Part 23 of this Act;
  - “document” has the same meaning as in Part 24 of this Act;
  - “prescribed” means prescribed by regulations.
- (5) Section 715A(2) applies in relation to sections 723B and 723C as it applies in relation to Part 24 of this Act.
- (6) Regulations may provide that in determining for the purposes of sections 723B and 723C whether a document has been delivered after the coming into force of a confidentiality order, any document delivered to the registrar after the latest time permitted for the delivery of that document shall be deemed to have been delivered at that time.

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- (7) For the purposes of section 723B(2)(a) and subsection (2) above it is immaterial whether or not the company in question has already been incorporated or become a relevant company or a company to which section 690A applies at the time of the application under section 723B.
- (8) For the purposes of section 723C(1) and subsection (3) above, it is immaterial whether the record in question consists in the original document concerned.

### **723E Sections 723B and 723C: offences**

- (1) Regulations may provide—
- (a) that any person who in an application under section 723B makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, shall be guilty of an offence;
  - (b) that any person who discloses information in contravention of regulations under section 723C(4) shall be guilty of an offence.
- (2) Regulations may provide that a person guilty of an offence under subsection (1) shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both; and
  - (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.

### **723F Regulations under sections 723B to 723E**

- (1) In sections 723B to 723E “regulations” means regulations made by the Secretary of State.
- (2) Any power of the Secretary of State to make regulations under any of those sections shall be exercisable by statutory instrument.
- (3) Regulations under sections 723B to 723E—
- (a) may make different provision for different cases;
  - (b) may contain such incidental, supplemental, consequential and transitional provision, as the Secretary of State thinks fit.
- (4) The provision that may be made by virtue of subsection (3)(b) includes provision repealing or modifying any enactment.
- (5) No regulations shall be made under any of sections 723B to 723E unless a draft of the instrument containing them has been laid before Parliament and approved by a resolution of each House.”
- (3) In section 288 (register of directors and secretaries), after subsection (6) there shall be inserted—
- “(7) Subsections (3) and (5) are subject to section 723B.”
- (4) In section 709(1) (inspection, etc of records kept by the registrar), at the beginning there shall be inserted “Subject to section 723B,”.