



Serious Organised Crime and Police Act 2005

2005 CHAPTER 15

PART 4

PUBLIC ORDER AND CONDUCT IN PUBLIC PLACES ETC.

Harassment

125 Harassment intended to deter lawful activities

- (1) The Protection from Harassment Act 1997 (c. 40) is amended as follows.
- (2) In section 1 (prohibition of harassment)—
 - (a) after subsection (1) insert—

“(1A) A person must not pursue a course of conduct —

 - (a) which involves harassment of two or more persons, and
 - (b) which he knows or ought to know involves harassment of those persons, and
 - (c) by which he intends to persuade any person (whether or not one of those mentioned above)—
 - (i) not to do something that he is entitled or required to do, or
 - (ii) to do something that he is not under any obligation to do.”;
 - (b) in subsection (2), after “amounts to” insert “or involves” and after “amounted to” insert “or involved”;
 - (c) in subsection (3), after “Subsection (1)” insert “or (1A)”.
- (3) In section 2(1) (offence of harassment) for “section 1” substitute “section 1(1) or (1A)”.

- (4) In section 3(1) (civil remedy) for “section 1” substitute “section 1(1)”.
- (5) After section 3 insert—

“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 a 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).”
- (6) In section 5(2) (restraining orders) after “victim” insert “or victims”.
- (7) In section 7 (interpretation of sections 1 to 5)—
- (a) for subsection (3) substitute—

“(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.”; and
 - (b) after subsection (4) add—

“(5) References to a person, in the context of the harassment of a person, are references to a person who is an individual.”

126 Harassment etc. of a person in his home

- (1) After section 42 of the Criminal Justice and Police Act 2001 (c. 16) insert—

“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—

Status: This is the original version (as it was originally enacted).

- (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
 - (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.”
- (2) A constable in uniform may arrest without warrant any person he reasonably suspects is committing or has committed an offence under section 42A (as inserted by subsection (1)).
 - (3) Subsection (2) ceases to have effect on the commencement of section 110 of this Act.

127 Harassment etc: police direction to stay away from person’s home

- (1) Section 42 of the Criminal Justice and Police Act 2001 (c. 16) (police directions stopping harassment of a person in his home) is amended as follows.
- (2) For subsection (4) substitute—

Status: This is the original version (as it was originally enacted).

- “(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.”
- (3) In subsection (7), for “contravenes a direction given to him under this section” substitute “fails to comply with a requirement in a direction given to him under this section (other than a requirement under subsection (4)(b))”.
- (4) After subsection (7) insert—
- “(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.”