



# Protection of Freedoms Act 2012

## 2012 CHAPTER 9

### PART 7

#### MISCELLANEOUS AND GENERAL

#### *Stalking*

#### 111 Offences in relation to stalking

- (1) After section 2 of the Protection from Harassment Act 1997 (offence of harassment) insert—

##### **“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,
  - (c) publishing any statement or other material—
    - (i) relating or purporting to relate to a person, or
    - (ii) purporting to originate from a person,

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*Status: This is the original version (as it was originally enacted).*

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- (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.”
- (2) After section 4 of that Act (putting people in fear of violence) insert—

**“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,
- 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 five 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.”

## **112 Power of entry in relation to stalking**

After section 2A of the Protection from Harassment Act 1997 (for which see section 111) insert—

### **“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.”