

CRIME AND COURTS ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Courts and Justice

Section 42: Other interpretative provisions

484. **Section 42** provides interpretative provisions for the operation of sections 34 to 41 and Schedule 15. An “approved regulator” and the concept of recognition as a regulator are central to identifying whether the statutory exemplary damages regime applies to a particular publisher. *Subsections (2) and (3)* define an “approved regulator” for the purpose of sections 34 to 41 and Schedule 15. *Subsection (4)* lists six types of “relevant claim” which are potentially relevant to the situation where a person experiences wrongful behaviour by a publisher and are therefore covered by sections 34 to 41 and Schedule 15. *Subsection (5)* explains that this does not include claims under section 13 of the Data Protection Act 1998, and that “harassment” means a claim under the Protection from Harassment Act 1997.
485. *Subsection (6)* defines “material time” as referring to the time of the events which gave rise to the claim. This is relevant in particular to the incidence of the power to award exemplary damages, the relevance of membership of an approved regulator to the decision whether to award exemplary damages and the availability of the provisions on costs. “News related material” is defined in *subsection (7)* to capture news, information and opinion about current affairs, and gossip about celebrities, other public figures and those in the news. *Subsection (8)* sets out the relationship between publication of news-related material and a relevant claim – this relationship is made clear in order to avoid the application of the statutory scheme to behaviour of relevant publishers which is unrelated to their news publishing activities (for example, an harassment claim relating to the relevant publisher’s private rather than professional activities). *Subsection (9)* makes clear that publications are caught regardless of the medium on which they are made. *Subsection (10)* clarifies that “conduct” can relate both to omissions, and also to activity following a point after which the events giving rise to the claim occurred (for example, in defamation cases, conduct of the defendant after the defamatory publication itself can be relevant to the court’s decisions on damages).