



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XI

SENTENCING

[^{F1} Non-harassment orders]

234A [^{F1} 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.
- (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 ^{F2} . . . 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.

^{F3}(4A) A constable may arrest without warrant any person he reasonably believes is committing or has committed an offence under subsection (4) above.

Status: Point in time view as at 27/06/2003. This version of this provision has been superseded.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 234A is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(4B) Subsection (4A) above is without prejudice to any power of arrest conferred by law apart from that subsection.]

^{F4}(5)

(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.

Textual Amendments

- F1** S. 234A inserted (16.6.1997) by 1997 c. 40, s. 11; S.I. 1997/1418, art. 2
- F2** Words in s. 234A(4) repealed (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 49(1)(a), 89; S.S.I. 2003/288, art. 2, Sch.
- F3** S. 234A(4A)(4B) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 49(1)(b), 89; S.S.I. 2003/288, art. 2, Sch.
- F4** S. 234A(5) repealed (1.8.1997) by 1997 c. 48, s. 62(1)(2), Sch. 1 para. 21(30), Sch. 3; S.I. 1997/1712, art. 3 Sch. (subject to arts. 4, 5)

Status:

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