



# Protection from Harassment Act 1997

## 1997 CHAPTER 40

An Act to make provision for protecting persons from harassment and similar conduct. [21st March 1997]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *England and Wales*

#### **1 Prohibition of harassment**

- (1) A person must not pursue a course of conduct—
  - (a) which amounts to harassment of another, and
  - (b) which he knows or ought to know amounts to harassment of the other.
- (2) For the purposes of this section, the person whose course of conduct is in question ought to know that it amounts to harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other.
- (3) Subsection (1) does not apply to a course of conduct if the person who pursued it shows—
  - (a) that it was pursued for the purpose of preventing or detecting crime,
  - (b) that it 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) that in the particular circumstances the pursuit of the course of conduct was reasonable.

#### **2 Offence of harassment**

- (1) A person who pursues a course of conduct in breach of section 1 is guilty of an offence.

- (2) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.
- (3) In section 24(2) of the Police and Criminal Evidence Act 1984 (arrestable offences), after paragraph (m) there is inserted—
  - “(n) an offence under section 2 of the Protection from Harassment Act 1997 (harassment).”.

### **3 Civil remedy**

- (1) An actual or apprehended breach of section 1 may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question.
- (2) On such a claim, damages may be awarded for (among other things) any anxiety caused by the harassment and any financial loss resulting from the harassment.
- (3) Where—
  - (a) in such proceedings the High Court or a county court grants an injunction for the purpose of restraining the defendant from pursuing any conduct which amounts to harassment, and
  - (b) the plaintiff considers that the defendant has done anything which he is prohibited from doing by the injunction,the plaintiff may apply for the issue of a warrant for the arrest of the defendant.
- (4) An application under subsection (3) may be made—
  - (a) where the injunction was granted by the High Court, to a judge of that court, and
  - (b) where the injunction was granted by a county court, to a judge or district judge of that or any other county court.
- (5) The judge or district judge to whom an application under subsection (3) is made may only issue a warrant if—
  - (a) the application is substantiated on oath, and
  - (b) the judge or district judge has reasonable grounds for believing that the defendant has done anything which he is prohibited from doing by the injunction.
- (6) Where—
  - (a) the High Court or a county court grants an injunction for the purpose mentioned in subsection (3)(a), and
  - (b) without reasonable excuse the defendant does anything which he is prohibited from doing by the injunction,he is guilty of an offence.
- (7) Where a person is convicted of an offence under subsection (6) in respect of any conduct, that conduct is not punishable as a contempt of court.
- (8) A person cannot be convicted of an offence under subsection (6) in respect of any conduct which has been punished as a contempt of court.
- (9) A person guilty of an offence under subsection (6) 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 six months, or a fine not exceeding the statutory maximum, or both.

#### **4 Putting people in fear of violence**

- (1) A person whose course of conduct causes another to fear, on at least two occasions, that violence will be used against him is guilty of an offence if he knows or ought to know that his course of conduct will cause the other so to fear on each of those occasions.
- (2) For the purposes of this section, the person whose course of conduct is in question ought to know that it will cause another to fear that violence will be used against him on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause the other so to fear on that occasion.
- (3) It is a defence for a person charged with an offence under this section to show that—
  - (a) his course of conduct was pursued for the purpose of preventing or detecting crime,
  - (b) his 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 his course of conduct was reasonable for the protection of himself or another or for the protection of his or another's property.
- (4) 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 six months, or a fine not exceeding the statutory maximum, or both.
- (5) If on the trial on indictment of a person charged with an offence under this section the jury find him not guilty of the offence charged, they may find him guilty of an offence under section 2.
- (6) The Crown Court has the same powers and duties in relation to a person who is by virtue of subsection (5) convicted before it of an offence under section 2 as a magistrates' court would have on convicting him of the offence.

#### **5 Restraining orders**

- (1) A court sentencing or otherwise dealing with a person ("the defendant") convicted of an offence under section 2 or 4 may (as well as sentencing him or dealing with him in any other way) make an order under this section.
- (2) The order may, for the purpose of protecting the victim of the offence, or any other person mentioned in the order, from further conduct which—
  - (a) amounts to harassment, or
  - (b) will cause a fear of violence,prohibit the defendant from doing anything described in the order.
- (3) The order may have effect for a specified period or until further order.

- (4) The prosecutor, the defendant or any other person mentioned in the order may apply to the court which made the order for it to be varied or discharged by a further order.
- (5) If without reasonable excuse the defendant does anything which he is prohibited from doing by an order under this section, he is guilty of an offence.
- (6) 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 six months, or a fine not exceeding the statutory maximum, or both.

## 6 Limitation

In section 11 of the Limitation Act 1980 (special time limit for actions in respect of personal injuries), after subsection (1) there is inserted—

“(1A) This section does not apply to any action brought for damages under section 3 of the Protection from Harassment Act 1997.”

## 7 Interpretation of this group of sections

- (1) This section applies for the interpretation of sections 1 to 5.
- (2) References to harassing a person include alarming the person or causing the person distress.
- (3) A “course of conduct” must involve conduct on at least two occasions.
- (4) “Conduct” includes speech.

*Scotland*

## 8 Harassment

- (1) Every individual has a right to be free from harassment and, accordingly, a person must not pursue a course of conduct which amounts to harassment of another and—
  - (a) is intended to amount to harassment of that person; or
  - (b) occurs in circumstances where it would appear to a reasonable person that it would amount to harassment of that person.
- (2) An actual or apprehended breach of subsection (1) may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question; and any such claim shall be known as an action of harassment.
- (3) For the purposes of this section—
  - “conduct” includes speech;
  - “harassment” of a person includes causing the person alarm or distress; and
  - a course of conduct must involve conduct on at least two occasions.
- (4) It shall be a defence to any action of harassment to show that the course of conduct complained of—
  - (a) was authorised by, under or by virtue of any enactment or rule of law;

- (b) was pursued for the purpose of preventing or detecting crime; or
  - (c) was, in the particular circumstances, reasonable.
- (5) In an action of harassment the court may, without prejudice to any other remedies which it may grant—
  - (a) award damages;
  - (b) grant—
    - (i) interdict or interim interdict;
    - (ii) if it is satisfied that it is appropriate for it to do so in order to protect the person from further harassment, an order, to be known as a “non-harassment order”, requiring the defender to refrain from such conduct in relation to the pursuer as may be specified in the order for such period (which includes an indeterminate period) as may be so specified,
      - but a person may not be subjected to the same prohibitions in an interdict or interim interdict and a non-harassment order at the same time.
- (6) The damages which may be awarded in an action of harassment include damages for any anxiety caused by the harassment and any financial loss resulting from it.
- (7) Without prejudice to any right to seek review of any interlocutor, a person against whom a non-harassment order has been made, or the person for whose protection the order was made, may apply to the court by which the order was made for revocation of or a variation of the order and, on any such application, the court may revoke the order or vary it in such manner as it considers appropriate.
- (8) In section 10(1) of the Damages (Scotland) Act 1976 (interpretation), in the definition of “personal injuries”, after “to reputation” there is inserted “, or injury resulting from harassment actionable under section 8 of the Protection from Harassment Act 1997”.

## **9 Breach of non-harassment order**

- (1) Any person who is found to be in breach of a non-harassment order made under section 8 is guilty of an offence and liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding five 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 six months or to a fine not exceeding the statutory maximum, or to both such imprisonment and such fine.
- (2) A breach of a non-harassment order shall not be punishable other than in accordance with subsection (1).

## **10 Limitation**

- (1) After section 18A of the Prescription and Limitation (Scotland) Act 1973 there is inserted the following section—

**“18B Actions of harassment**

- (1) This section applies to actions of harassment (within the meaning of section 8 of the Protection from Harassment Act 1997) which include a claim for damages.
- (2) Subject to subsection (3) below and to section 19A of this Act, no action to which this section applies shall be brought unless it is commenced within a period of 3 years after—
  - (a) the date on which the alleged harassment ceased; or
  - (b) the date, (if later than the date mentioned in paragraph (a) above) on which the pursuer in the action became, or on which, in the opinion of the court, it would have been reasonably practicable for him in all the circumstances to have become, aware, that the defender was a person responsible for the alleged harassment or the employer or principal of such a person.
- (3) In the computation of the period specified in subsection (2) above there shall be disregarded any time during which the person who is alleged to have suffered the harassment was under legal disability by reason of nonage or unsoundness of mind.”.
- (2) In subsection (1) of section 19A of that Act (power of court to override time-limits), for “section 17 or section 18 and section 18A” there is substituted “section 17, 18, 18A or 18B”.

**11 Non-harassment order following criminal offence**

After section 234 of the Criminal Procedure (Scotland) Act 1995 there is inserted the following section—

*“Non-harassment orders***234A 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 found to be 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.
- (5) The Lord Advocate, in solemn proceedings, and the prosecutor, in summary proceedings, may appeal to the High Court against any decision by a court to refuse an application under subsection (1) above; and on any such appeal the High Court may make such order as it considers appropriate.
- (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.”.

### *General*

## **12 National security, etc**

- (1) If the Secretary of State certifies that in his opinion anything done by a specified person on a specified occasion related to—
  - (a) national security,
  - (b) the economic well-being of the United Kingdom, or
  - (c) the prevention or detection of serious crime,and was done on behalf of the Crown, the certificate is conclusive evidence that this Act does not apply to any conduct of that person on that occasion.
- (2) In subsection (1), “specified” means specified in the certificate in question.
- (3) A document purporting to be a certificate under subsection (1) is to be received in evidence and, unless the contrary is proved, be treated as being such a certificate.

## **13 Corresponding provision for Northern Ireland**

An Order in Council made under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 which contains a statement that it is made only for purposes corresponding to those of sections 1 to 7 and 12 of this Act—

- (a) shall not be subject to sub-paragraphs (4) and (5) of paragraph 1 of that Schedule (affirmative resolution of both Houses of Parliament), but
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**14      Extent**

- (1) Sections 1 to 7 extend to England and Wales only.
- (2) Sections 8 to 11 extend to Scotland only.
- (3) This Act (except section 13) does not extend to Northern Ireland.

**15      Commencement**

- (1) Sections 1, 2, 4, 5 and 7 to 12 are to come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (2) Sections 3 and 6 are to come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint.
- (3) Different days may be appointed under this section for different purposes.

**16      Short title**

This Act may be cited as the Protection from Harassment Act 1997.