



Protection from Harassment Act 1997

1997 CHAPTER 40

Scotland

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.

Status: This is the original version (as it was originally enacted).

- (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.”.