



# Criminal Justice and Police Act 2001

## 2001 CHAPTER 16

### PART 1

#### PROVISIONS FOR COMBATTING CRIME AND DISORDER

### CHAPTER 3

#### OTHER PROVISIONS FOR COMBATTING CRIME AND DISORDER

##### *Intimidating, harming and threatening witnesses etc.*

### 39 Intimidation of witnesses

- (1) A person commits an offence if—
  - (a) he does an act which intimidates, and is intended to intimidate, another person (“the victim”);
  - (b) he does the act—
    - (i) knowing or believing that the victim is or may be a witness in any relevant proceedings; and
    - (ii) intending, by his act, to cause the course of justice to be obstructed, perverted or interfered with;and
  - (c) the act is done after the commencement of those proceedings.
- (2) For the purposes of subsection (1) it is immaterial—
  - (a) whether or not the act that is done is done in the presence of the victim;
  - (b) whether that act is done to the victim himself or to another person; and
  - (c) whether or not the intention to cause the course of justice to be obstructed, perverted or interfered with is the predominating intention of the person doing the act in question.
- (3) If, in proceedings against a person for an offence under this section, it is proved—

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- (a) that he did any act that intimidated, and was intended to intimidate, another person, and
  - (b) that he did that act knowing or believing that that other person was or might be a witness in any relevant proceedings that had already commenced,
- he shall be presumed, unless the contrary is shown, to have done the act with the intention of causing the course of justice to be obstructed, perverted or interfered with.
- (4) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both;
  - (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both.
- (5) References in this section to a witness, in relation to any proceedings, include references to a person who provides, or is able to provide, any information or any document or other thing which might be used as evidence in those proceedings or which (whether or not admissible as evidence in those proceedings)—
- (a) might tend to confirm evidence which will be or might be admitted in those proceedings;
  - (b) might be referred to in evidence given in those proceedings by another witness; or
  - (c) might be used as the basis for any cross examination in the course of those proceedings.
- (6) References in this section to doing an act include references to issuing any threat (whether against a person or his finances or property or otherwise), or making any other statement.
- (7) This section is in addition to, and not in derogation of, any offence subsisting at common law.

#### **40 Harming witnesses etc.**

- (1) A person commits an offence if, in circumstances falling within subsection (2)—
- (a) he does an act which harms, and is intended to harm, another person; or
  - (b) intending to cause another person to fear harm, he threatens to do an act which would harm that other person.
- (2) The circumstances fall within this subsection if—
- (a) the person doing or threatening to do the act does so knowing or believing that some person (whether or not the person harmed or threatened or the person against whom harm is threatened) has been a witness in relevant proceedings; and
  - (b) he does or threatens to do that act because of that knowledge or belief.
- (3) If, in proceedings against a person for an offence under this section, it is proved that, within the relevant period—
- (a) he did an act which harmed, and was intended to harm, another person, or
  - (b) intending to cause another person to fear harm, he threatened to do an act which would harm that other person,
- and that he did the act, or (as the case may be) threatened to do the act, with the knowledge or belief required by paragraph (a) of subsection (2), he shall be presumed,

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unless the contrary is shown, to have done the act, or (as the case may be) threatened to do the act, because of that knowledge or belief.

- (4) For the purposes of this section it is immaterial—
- (a) whether or not the act that is done or threatened, or the threat that is made, is or would be done or is made in the presence of the person who is or would be harmed or of the person who is threatened;
  - (b) whether or not the motive mentioned in subsection (2)(b) is the predominating motive for the act or threat; and
  - (c) whether the harm that is done or threatened is physical or financial or is harm to a person or to his property.
- (5) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both;
  - (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both.
- (6) In this section “the relevant period”, in relation to an act done, or threat made, with the knowledge or belief that a person has been a witness in any relevant proceedings, means the period that begins with the commencement of those proceedings and ends one year after they are finally concluded.
- (7) References in this section to a witness, in relation to any proceedings, include references to a person who has provided any information or any document or other thing which was or might have been used as evidence in those proceedings or which (whether or not it was admissible as evidence in those proceedings)—
- (a) tended to confirm or might have tended to confirm any evidence which was or could have been given in those proceedings;
  - (b) was or might have been referred to in evidence given in those proceedings by another witness; or
  - (c) was or might have been used as the basis for any cross examination in the course of those proceedings.
- (8) This section is in addition to, and not in derogation of, any offence subsisting at common law.

## **41 Relevant proceedings**

- (1) A reference in section 39 or 40 to relevant proceedings is a reference to any proceedings in or before the Court of Appeal, the High Court, the Crown Court or any county court or magistrates’ court which—
- (a) are not proceedings for an offence; and
  - (b) were commenced after the coming into force of that section.
- (2) For the purposes of any reference in section 39 or 40 or this section to the commencement of any proceedings relevant proceedings are commenced (subject to subsection (5)) at the earliest time at which one of the following occurs—
- (a) an information is laid or application, claim form, complaint, petition, summons or other process made or issued for the purpose of commencing the proceedings;

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- (b) any other step is taken by means of which the subject matter of the proceedings is brought for the first time (whether as part of the proceedings or in anticipation of them) before the court.
- (3) For the purposes of any reference in section 39 or 40 to the time when any proceedings are finally concluded, relevant proceedings are finally concluded (subject to subsection (4))—
- (a) if proceedings for an appeal against, or an application for a review of, those proceedings or of any decision taken in those proceedings are brought or is made, at the time when proceedings on that appeal or application are finally concluded;
  - (b) if the proceedings are withdrawn or discontinued, at the time when they are withdrawn or discontinued; and
  - (c) in any other case, when the court in or before which the proceedings are brought finally disposes of all the matters arising in those proceedings.
- (4) Relevant proceedings shall not be taken to be finally concluded by virtue of subsection (3)(a) where—
- (a) the matters to which the appeal or application relate are such that the proceedings in respect of which it is brought or made continue or resume after the making of any determination on that appeal or application; or
  - (b) a determination made on that appeal or application requires those proceedings to continue or to be resumed.
- (5) Where, after having appeared to be finally concluded, any relevant proceedings continue by reason of—
- (a) the giving of permission to bring an appeal after a fixed time for appealing has expired,
  - (b) the lifting of any stay in the proceedings,
  - (c) the setting aside, without an appeal, of any judgment or order, or
  - (d) the revival of any discontinued proceedings,

sections 39 and 40 and this section shall have effect as if the proceedings had concluded when they appeared to, but as if the giving of permission, the lifting of the stay, the setting aside of the judgment or order or, as the case may be, the revival of the discontinued proceedings were the commencement of new relevant proceedings.

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