



Domestic Violence, Crime and Victims Act 2004

2004 CHAPTER 28

PART 2

CRIMINAL JUSTICE

Assault, harassment etc

12 Restraining orders: England and Wales

- (1) In section 5 of the Protection from Harassment Act 1997 (c. 40) (power to make restraining order where defendant convicted of offence under section 2 or 4 of that Act), in subsection (1) omit “under section 2 or 4”.

^{F1}(2)

^{F1}(3)

^{F1}(4)

- (5) After that section insert—

“5A Restraining orders on acquittal

- (1) A court before which a person (“the defendant”) is acquitted of an offence may, if it considers it necessary to do so to protect a person from harassment by the defendant, make an order prohibiting the defendant from doing anything described in the order.
- (2) Subsections (3) to (7) of section 5 apply to an order under this section as they apply to an order under that one.
- (3) Where the Court of Appeal allow an appeal against conviction they may remit the case to the Crown Court to consider whether to proceed under this section.

Changes to legislation: Domestic Violence, Crime and Victims Act 2004, Section 12 is up to date with all changes known to be in force on or before 06 September 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) [View outstanding changes](#)

- (4) Where—
- (a) the Crown Court allows an appeal against conviction, or
 - (b) a case is remitted to the Crown Court under subsection (3),
- the reference in subsection (1) to a court before which a person is acquitted of an offence is to be read as referring to that court.
- (5) A person made subject to an order under this section has the same right of appeal against the order as if—
- (a) he had been convicted of the offence in question before the court which made the order, and
 - (b) the order had been made under section 5.”

Textual Amendments

- F1** S. 12(2)-(4) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), ss. 1, 5(2)(3))

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 8A and cross-heading inserted by [2024 c. 21 s. 19\(2\)](#)
- s. 37ZA inserted by [2024 c. 21 s. 21\(3\)](#)
- s. 49(4A) inserted by [2024 c. 21 s. 22\(2\)\(c\)](#)
- s. 49(5A) inserted by [2024 c. 21 s. 22\(2\)\(d\)](#)
- s. 49A inserted by [2024 c. 21 s. 22\(3\)](#)
- s. 51A inserted by [2024 c. 21 s. 22\(4\)](#)
- Sch. 9 para. 26A inserted by [2015 c. 2 Sch. 3 para. 12](#)
- Sch. 9 para. 11A inserted by [2024 c. 21 s. 22\(5\)\(b\)](#)
- Sch. 9 para. 16A inserted by [2024 c. 21 s. 22\(5\)\(c\)](#)
- Sch. 9 para. 29A-29C inserted by [2024 c. 21 s. 22\(5\)\(d\)](#)