



Domestic Abuse (Scotland) Act 2018

2018 asp 5

PART 1

OFFENCE AS TO DOMESTIC ABUSE

Engaging in course of abusive behaviour

1 Abusive behaviour towards partner or ex-partner

- (1) A person commits an offence if—
- (a) the person (“A”) engages in a course of behaviour which is abusive of A’s partner or ex-partner (“B”), and
 - (b) both of the further conditions are met.
- (2) The further conditions are—
- (a) that a reasonable person would consider the course of behaviour to be likely to cause B to suffer physical or psychological harm,
 - (b) that either—
 - (i) A intends by the course of behaviour to cause B to suffer physical or psychological harm, or
 - (ii) A is reckless as to whether the course of behaviour causes B to suffer physical or psychological harm.
- (3) In the further conditions, the references to psychological harm include fear, alarm and distress.

2 What constitutes abusive behaviour

- (1) Subsections (2) to (4) elaborate on section 1(1) as to A’s behaviour.
- (2) Behaviour which is abusive of B includes (in particular)—
- (a) behaviour directed at B that is violent, threatening or intimidating,
 - (b) behaviour directed at B, at a child of B or at another person that either—
 - (i) has as its purpose (or among its purposes) one or more of the relevant effects set out in subsection (3), or

Status: This is the original version (as it was originally enacted).

(ii) would be considered by a reasonable person to be likely to have one or more of the relevant effects set out in subsection (3).

(3) The relevant effects are of—

- (a) making B dependent on, or subordinate to, A,
- (b) isolating B from friends, relatives or other sources of support,
- (c) controlling, regulating or monitoring B’s day-to-day activities,
- (d) depriving B of, or restricting B’s, freedom of action,
- (e) frightening, humiliating, degrading or punishing B.

(4) In subsection (2)—

- (a) in paragraph (a), the reference to violent behaviour includes sexual violence as well as physical violence,
- (b) in paragraph (b), the reference to a child is to a person who is under 18 years of age.

3 Extra-territorial jurisdiction

(1) An offence under section 1(1) can be constituted by a course of behaviour engaged in by A even if the course of behaviour occurs wholly or partly outside the United Kingdom.

(2) If the course of behaviour occurs wholly outside the United Kingdom—

- (a) A may be prosecuted, tried and punished for the offence—
 - (i) in a sheriff court district in which A is apprehended or in custody, or
 - (ii) in a sheriff court district that is determined by the Lord Advocate, as if the offence has been committed entirely in that district,
- (b) the offence is, for all things incidental to or consequential on trial and punishment, deemed to have been committed entirely in that district.

(3) Subsections (1) and (2) apply only if A, when the course of behaviour occurs—

- (a) is habitually resident in Scotland, or
- (b) is a UK national.

(4) “UK national” means someone who is, as referred to in the British Nationality Act 1981—

- (a) a British citizen,
- (b) a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen, or
- (c) a British subject or a British protected person.