
Status: Point in time view as at 11/01/2015.

Changes to legislation: The Protection from Harassment (Northern Ireland) Order 1997 is up to date with all changes known to be in force on or before 22 April 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)

STATUTORY INSTRUMENTS

1997 No. 1180 (N.I. 9)

The Protection from Harassment (Northern Ireland) Order 1997

- - - - - 8th April 1997

Title and commencement

1.—(1) This Order may be cited as the Protection from Harassment (Northern Ireland) Order 1997.

(2) This Order shall come into operation on such day or days as the Secretary of State may by order appoint^{F1}.

F1 fully exercised by SR 1997/286; 1999/146
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Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order references to harassing a person include alarming the person or causing the person distress.

(3) For the purposes of this Order a “course of conduct” must involve conduct on at least two occasions and “conduct” includes speech.

(4) In this Order “statutory provision” has the meaning assigned by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Prohibition of harassment

3.—(1) A person shall 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 Article, 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) Paragraph (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 statutory provision or rule of law or to comply with any condition or requirement imposed by any person under any statutory provision; or
- (c) that in the particular circumstances the pursuit of the course of conduct was reasonable.

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Offence of harassment

4.—(1) A person who pursues a course of conduct in breach of Article 3 shall be guilty of an offence.

[^{F2}(2) A person guilty of an offence under this Article shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two 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.]

Para. (3) rep. by 1998 NI 6

F2 2004 NI 15

Civil remedy

5.—(1) An actual or apprehended breach of Article 3 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 paragraph (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 of that or any other county court.

(5) The judge to whom an application under paragraph (3) is made may only issue a warrant if—

- (a) the application is substantiated on oath; and
- (b) the 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 paragraph (3)(a); and
- (b) without reasonable excuse the defendant does anything which he is prohibited from doing by the injunction,

he shall be guilty of an offence.

(7) Where a person is convicted of an offence under paragraph (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 paragraph (6) in respect of any conduct which has been punished as a contempt of court.

(9) A person guilty of an offence under paragraph (6) shall be 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.

Putting people in fear of violence

6.—(1) A person whose course of conduct causes another to fear, on at least two occasions, that violence will be used against him shall be 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 Article, 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 Article 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 statutory provision or rule of law or to comply with any condition or requirement imposed by any person under any statutory provision; 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 Article shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding^[F3] seven 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 Article the jury find him not guilty of the offence charged, they may find him guilty of an offence under Article 4.

Para. (6) rep. by 2004 NI 15

F3 2004 NI 15

Restraining orders ^[F4]on conviction]

7.—(1) A court sentencing or otherwise dealing with a person (“the defendant”) convicted of an offence^{F5}. . . may (as well as sentencing him or dealing with him in any other way) make an order under this Article.

(2) The order may, for the purpose of protecting the victim of the offence, or any other person mentioned in the order, from^{F6}. . . 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.

^[F7(3A)] In proceedings under this Article both the prosecution and the defence may lead, as further evidence, any evidence that would be admissible in proceedings for an injunction under Article 5.]

(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.

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[^{F8}(4A) Any person mentioned in the order is entitled to be heard on the hearing of an application under paragraph (4).]

(5) If without reasonable excuse the defendant does anything which he is prohibited from doing by an order under this Article, he shall be guilty of an offence.

(6) A person guilty of an offence under this Article shall be 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.

[^{F9}(7) A court dealing with a person for an offence under this Article may vary or discharge the order in question by a further order.]

F4 Art. 7: words in the heading inserted (30.9.2009) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1), 60, Sch. 10 para. 47(2); S.I. 2009/2501, art. 2(c)(d)

F5 Words in art. 7(1) repealed (30.9.2009) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 13(1), 58(2), 60, Sch. 11; S.I. 2009/2501, art. 2(b)(c)(e)

F6 Word in art. 7(2) repealed (30.9.2009) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58, 60, Sch. 10 para. 47(3), Sch. 11; S.I. 2009/2501, art. 2(c)(d)(e)

F7 Art. 7(3A) inserted (30.9.2009) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 13(2), 60; S.I. 2009/2501, art. 2(b)

F8 Art. 7(4A) inserted (30.9.2009) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 13(3), 60; S.I. 2009/2501, art. 2(b)

F9 Art. 7(7) inserted (30.9.2009) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 13(4), 60; S.I. 2009/2501, art. 2(b)

Modifications etc. (not altering text)

C1 Art. 7 applied (with modifications) (11.1.2015) by The Criminal Justice (European Protection Order) (Northern Ireland) Regulations 2014 (S.R. 2014/320), regs. 1(1), 13(2)

[^{F10}**Restraining orders on acquittal**

7A.—(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) Paragraphs (3) to (7) of Article 7 apply to an order under this Article 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 Article.

(4) Where—

(a) a county court allows an appeal against conviction, or

(b) a case is remitted to the Crown Court under paragraph (3),

the reference in paragraph (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 Article 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 Article 7.]

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F10 Art. 7A inserted (30.9.2009) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 13(5), 60; S.I. 2009/2501, art. 2(b)

Limitation

8. In Article 7 of the Limitation (Northern Ireland) Order 1989 (time limit for actions in respect of personal injuries), after paragraph (1) there shall be inserted—

“(1A) This Article does not apply to any action brought for damages under Article 5 of the Protection from Harassment (Northern Ireland) Order 1997.”

National security, etc.

9.—(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 shall be conclusive evidence that this Order does not apply to any conduct of that person on that occasion.

(2) In paragraph (1), “specified” means specified in the certificate in question.

(3) A document purporting to be a certificate under paragraph (1) shall be received in evidence and, unless the contrary is proved, be treated as being such a certificate.

Modifications etc. (not altering text)

C2 Art. 9(1)(c): functions transferred from Secretary of State to Department of Justice (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(1)(2), Sch. 1 (with arts. 28-31); S.I. 2010/977, art. 1(2)

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