
STATUTORY INSTRUMENTS

1997 No. 1180 (N.I. 9)

NORTHERN IRELAND

The Protection from Harassment (Northern Ireland) Order 1997

Made - - - - *8th April 1997*
Laid before Parliament *14th May 1997*
Coming into operation on days to be appointed under
Article 1(2)

At the Court at Windsor Castle, the 8th day of April 1997

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is made only for purposes corresponding to those of sections 1 to 7 and 12 of the Protection from Harassment Act 1997:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (as modified by section 13 of the said Act of 1997) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

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.

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.

Offence of harassment

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

(2) A person guilty of an offence under this Article shall be liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.

(3) In Article 26(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (arrestable offences), after sub-paragraph (f) there shall be inserted—

- “(g) an offence under Article 4 of the Protection from Harassment (Northern Ireland) Order 1997.”.

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 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.

(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.

(6) The Crown Court has the same powers and duties in relation to a person who is by virtue of paragraph (5) convicted before it of an offence under Article 4 as a magistrates' court would have on convicting him of the offence.

Restraining orders

7.—(1) A court sentencing or otherwise dealing with a person (“the defendant”) convicted of an offence under Article 4 or 6 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 further 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.

(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.

(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.

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.

N. H. Nicholls
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made only for purposes corresponding to those of sections 1 to 7 and 12 of the Protection from Harassment Act 1997.

It makes it an offence to pursue a course of conduct which amounts to harassment of a person, or which causes a person to fear that violence will be used against him. It also provides criminal courts with the power to make an order preventing further harassment.

The Order also creates a civil tort against which an order restraining harassment may be sought and in respect of which damages may be awarded.