

# CRIMINAL JUSTICE AND POLICE ACT 2001

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1: Provisions for Combatting Crime and Disorder.**

#### *Chapter 3: Other provisions for combatting crime*

#### **Local child curfew schemes**

#### *Section 43: Malicious communications*

133. *Subsection (1)* amends section 1(1) of the Malicious Communications Act 1988, which creates an offence of sending letters etc with intent to cause distress or anxiety, to make it clear that communications sent by electronic means are included in its scope.
134. *Subsection (2)* amends section 1(2), which provides for a defence of making a threat on the grounds of reasonableness, by replacing the current subjective test (i.e. that the accused believed his demand and the use of the threat to reinforce that demand to be reasonable), with an objective one (i.e. that the demand was made on reasonable grounds and that he or she honestly and reasonably believed that the threat was a proper means of reinforcing that demand). The defence still provides for "legitimate" actions, for example threatening court action in the case of debts.
135. *Subsection (3)* inserts section 1(2A) to provide that communications sent by electronic means include any oral or other communication by telephone or other means of telecommunication.
136. *Subsection (5)* amends section 1(5) to increase the maximum penalty from a level 4 fine to six months' imprisonment or a level 5 fine or both.