

PROTECTION OF FREEDOMS ACT 2012

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 7: Miscellaneous and general

Section 111: Offences in relation to stalking

446. *Subsection (1)* inserts a new section 2A into the Protection from Harassment Act 1997 which introduces a new offence of stalking. A person will be guilty of committing this new offence if that person pursues a course of conduct in breach of the prohibition on harassment in section 1(1) of the Protection from Harassment Act 1997 and the course of conduct amounts to stalking.
447. New section 2A(2) provides that a course of conduct amounts to stalking if it amounts to harassment, the acts or omissions involved are ones associated with stalking and the person knows or ought to know that the course of conduct amounts to harassment of the other person.
448. New section 2A (3) provides a non-exhaustive list of examples of behaviour that are associated with stalking, such as ‘following a person’ and ‘watching or spying on a person’. This list of behaviours is based on some of those set out in section 39 of the Criminal Justice and Licensing Act (Scotland) Act 2010.
449. New section 2A(4) provides that this is a summary only offence with a maximum penalty of six months imprisonment or a fine not exceeding level 5 on the standard scale, or both.
450. *Subsection (2)* inserts new section 4A into the Protection from Harassment Act 1997 which introduces a new offence of stalking involving fear of violence or serious alarm or distress. A person would be guilty of the new offence where that person pursues a course of conduct amounting to stalking which causes another to fear, on at least two occasions, that violence will be used against them or it causes the victim serious alarm or distress that has a substantial adverse effect on their usual day-to-day activities and the person knows or ought to know that his course of conduct will have such an effect on the victim.
451. New sections 4A(2) and 4A(3) provide that a person ought to know that his or her conduct will cause the other person to fear that violence will be used against them (new section 4A(2)) or will cause the other person serious alarm or distress (new section 4A(3)), if a reasonable person in possession of the same information would think it so. New section 4A(4) provides defences including, for example, if the person can show that his or her conduct was for the purpose of preventing or detecting crime.
452. New section 4A(5) provides that the offence will be an either way offence with a maximum penalty of five years imprisonment or an unlimited fine, or both, if tried in

*These notes refer to the Protection of Freedoms Act
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the Crown Court, or a fine up to £5000 or a term of imprisonment up to six months, or both, if tried in the magistrates' court.