



Isle of Man

Ellan Vannin

AT 12 of 2000

**PROTECTION FROM HARASSMENT ACT
2000**



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**Isle of Man***Ellan Vannin*

PROTECTION FROM HARASSMENT ACT 2000

<i>Received Royal Assent:</i>	<i>17 October 2000</i>
<i>Passed:</i>	<i>17 October 2000</i>
<i>Commenced:</i>	<i>18 October 2000</i>

AN ACT to make provision for protecting persons from harassment and similar conduct; and for connected purposes.

1 Prohibition of harassment

[P1997/40/1]

- (1) A person (referred to below as “P”) must not pursue a course of conduct —
- (a) which amounts to harassment of another, and
 - (b) which P knows or ought to know amounts to harassment of the other.^{1 2}
- (1A) P must not pursue a course of conduct, —
- (a) which involves harassment of 2 or more persons;
 - (b) which P knows or ought to know involves harassment of those persons; and
 - (c) by which P intends to persuade any person (whether or not one of those mentioned above)—
 - (i) not to do something that that person is entitled or required to do; or
 - (ii) to do something that that person is not under any obligation to do.³
- (2) For the purposes of this section or section 2A(2)(c), P ought to know that the conduct in question amounts to or involves harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to or involved harassment of the other.⁴
- (3) Neither subsection (1) nor subsection (1A) applies to a course of conduct if P shows, —
- (a) that it was pursued for the purpose of preventing or detecting crime,

- (b) that it was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or
- (c) that in the particular circumstances the pursuit of the course of conduct was reasonable.⁵

2 Offence of harassment

If P contravenes section 1(1) or (1A), P commits an offence.

Maximum penalty (summary) — 6 months' custody or a level 5 fine.⁶

2A Stalking

P1997/40/2A (omitting ss.(5))

- (1) A person commits an offence if, —
 - (a) the person pursues a course of conduct in breach of section 1(1); and
 - (b) the course of conduct amounts to stalking.
- (2) For the purposes of subsection (1)(b) (and section 4A(1)(a)) a person's course of conduct amounts to stalking of another person if, —
 - (a) it amounts to harassment of that person;
 - (b) the acts or omissions involved are ones associated with stalking; and
 - (c) the person whose course of conduct it is knows or ought to know that the course of conduct amounts to harassment of the other person.
- (3) The following are examples of acts or omissions which, in particular circumstances, are ones associated with stalking, —
 - (a) following a person;
 - (b) contacting, or attempting to contact, a person by any means;
 - (c) publishing any statement or other material, —
 - (i) relating or purporting to relate to a person; or
 - (ii) purporting to originate from a person;
 - (d) monitoring the use by a person of the internet, email or any other form of electronic communication;
 - (e) loitering in any place (whether public or private);
 - (f) interfering with any property in the possession of a person;
 - (g) watching or spying on a person.
- (4) This section does not limit the application of section 2.

Maximum penalty (summary) — 12 months' custody or a level 5 fine.⁷

2B Power of entry in relation to offence of harassment or stalking

P1997/40/2B

- (1) A justice may, on an application by a constable, issue a warrant authorising a constable to enter and search premises if the justice is satisfied that there are reasonable grounds for believing that, —
- (a) an offence under section 2 or 2A has been, or is being, committed;
 - (b) there is material on the premises which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence;
 - (c) the material, —
 - (i) is likely to be admissible in evidence at a trial for the offence; and
 - (ii) does not consist of, or include, items subject to legal privilege, excluded material or special procedure material (within the meanings given by sections 13, 14 and 17 of the *Police Power and Procedures Act 1998*); and
 - (d) either, —
 - (i) entry to the premises will not be granted unless a warrant is produced; or
 - (ii) the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.
- (2) A constable may seize and retain anything for which a search has been authorised under subsection (1).
- (3) A constable may use reasonable force, if necessary, in the exercise of any power conferred by virtue of this section.
- (4) In this section, —

“justice” has the meaning given by section 114 of the *Summary Jurisdiction Act 1989*; and

“premises” has the same meaning as in section 81 of the *Police Powers and Procedures Act 1998*.⁸

3 Civil remedy

[P1997/40/3]

- (1) An actual or apprehended breach of section 1(1) 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.⁹
- (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 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 the defendant is prohibited from doing by the injunction,¹⁰
- the plaintiff may apply for the issue of a warrant for the arrest of the defendant.
- (4) An application under subsection (3) shall be made to a Deemster.
- (5) The Deemster to whom an application under subsection (3) is made may only issue a warrant if —
- (a) the application is substantiated on oath, and
 - (b) the Deemster has reasonable grounds for believing that the defendant has done anything which the defendant is prohibited from doing by the injunction.¹¹
- (6) Where —
- (a) the High Court grants an injunction for the purpose of restraining the defendant from pursuing any conduct which amounts to harassment, and
 - (b) without reasonable excuse the defendant does anything which the defendant is prohibited from doing by the injunction,¹²
- the defendant is guilty of an offence.¹³
- (7) Where a person is convicted of an offence under subsection (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 subsection (6) in respect of any conduct which has been punished as a contempt of court.
- (9) A person guilty of an offence under subsection (6) is liable —
- (a) on conviction on information, to custody for a term not exceeding 5 years, or a fine, or both, or
 - (b) on summary conviction, to custody for a term not exceeding 6 months, or a fine not exceeding level 5, or both.¹⁴

3A Injunctions to protect persons from harassment within section 1(1A)

P1997/40/3A

- (1) This section applies where there is an actual or apprehended breach of section 1(1A) by any person (“the relevant person”).
- (2) In such a case, —
- (a) any person who is or may be a victim of the course of conduct in question; or

- (b) any person who is or may be a person falling within section 1(1A)(c),
- may apply to the High Court for an injunction restraining the relevant person from pursuing any conduct which amounts to harassment in relation to any person or persons mentioned or described in the injunction.
- (3) Section 3(3) to (9) apply in relation to an injunction granted under subsection (2) above as they apply in relation to an injunction granted as mentioned in section 3(3)(a).¹⁵

4 Putting people in fear of violence

P1994/40/4, reflecting P2012/9/Sch. 9, para 143(3) and P2017/3/175(1)(a).

- (1) A person (“A”) whose course of conduct causes another (“B”) to fear, on at least two occasions, that violence will be used against B is guilty of an offence if A knows or ought to know that A’s course of conduct will cause B so to fear on each of those occasions.
- Maximum penalty, —
- (a) (on information) — 10 years’ custody or a fine; or
- (b) (summary) — 12 months’ custody or a level 5 fine.
- (2) For the purposes of this section, A ought to know that it will cause B to fear that violence will be used against B on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause B so to fear on that occasion.
- (3) It is a defence for A to show that, —
- (a) A’s course of conduct was pursued for the purpose of preventing or detecting crime;
- (b) A’s course of conduct was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment; or
- (c) the pursuit of A’s course of conduct was reasonable for the protection of A or another or for the protection of the property of A or another.
- (4) If on A’s trial on information for an offence under this section A is found not guilty of the offence charged, A may nevertheless be found guilty of an offence under section 2 or 2A.
- (5) A Court of General Gaol Delivery has the same powers and duties in relation to a person who is by virtue of subsection (4) convicted before it of an offence under section 2 or 2A as a court of summary jurisdiction would have on convicting A of the offence.¹⁶

4A Stalking involving fear of violence or serious alarm or distress^{P1997/40/41} ins. by P2012/9/111(2) and am. P2017/3/175(1)(b)

- (1) A person (“A”) whose course of conduct, —

- (a) amounts to stalking; and
- (b) either, —
 - (i) causes another (“B”) to fear, on at least 2 occasions, that violence will be used against B; or
 - (ii) causes B serious alarm or distress which has a substantial adverse effect on B’s usual day-to-day activities,

commits an offence if A knows or ought to know that A’s course of conduct will cause B so to fear on each of those occasions or (as the case may be) will cause such alarm or distress.

Maximum penalty, —

(on information) — 10 years’ custody or a fine;

(summary) — 12 months’ custody or a level 5 fine.

- (2) For the purposes of this section A ought to know that A’s course of conduct will cause B to fear that violence will be used against B on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause B so to fear on that occasion.
- (3) For the purposes of this section A ought to know that A’s course of conduct will cause B serious alarm or distress which has a substantial adverse effect on B’s usual day-to-day activities if a reasonable person in possession of the same information would think the course of conduct would cause B such alarm or distress.
- (4) It is a defence for A to show that, —
 - (a) A’s course of conduct was pursued for the purpose of preventing or detecting crime;
 - (b) A’s course of conduct was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment; or
 - (c) the pursuit of A’s course of conduct was reasonable for the protection of A or another or for the protection of the property of A or another.
- (5) If on A’s trial on information for an offence under this section, A is found not guilty of the offence charged, A may nevertheless be found guilty of an offence under section 2 or 2A.
- (6) A Court of General Gaol Delivery has the same powers and duties in relation to a person who is by virtue of subsection (5) convicted before it of an offence under section 2 or 2A as a court of summary jurisdiction would have on convicting A of the offence.
- (7) This section does not limit section 4.¹⁷

5 Restraining orders on conviction¹⁸

[P1997/40/5]

- (1) A court sentencing or otherwise dealing with a person (“the defendant”) convicted of an offence may (as well as sentencing the defendant or dealing with the defendant in any other way) make an order under this section.¹⁹
- (2) The order may, for the purpose of protecting the victim of the offence, or any other person mentioned in the order, from conduct which —
 - (a) amounts to harassment, or
 - (b) will cause a fear of violence,prohibit the defendant from doing anything described in the order.²⁰
- (3) The order may have effect for a specified period or until further order.
- (3A) In proceedings under this section both the prosecution and the defence may lead, as further evidence, any evidence that would be admissible in proceedings for an injunction under section 3.²¹
- (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.
- (4A) Any person mentioned in the order is entitled to be heard on the hearing of an application under subsection (4).²²
- (5) A defendant who without reasonable excuse does anything which the defendant is prohibited from doing by an order under this section is guilty of an offence.²³
- (6) A person guilty of an offence under this section is liable —
 - (a) on conviction on information, to custody for a term not exceeding 5 years, or a fine, or both, or
 - (b) on summary conviction, to custody for a term not exceeding 6 months, or a fine not exceeding level 5 on the standard scale, or both.²⁴
- (7) A court dealing with a person for an offence under this section may vary or discharge the order in question by a further order.²⁵

5A Restraining orders on acquittal

P1997/40/5A

- (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 further conduct which —
 - (a) amounts to harassment; or
 - (b) will cause a fear of violence,

make an order prohibiting the defendant from doing anything described in the order.

- (2) Subsections (3) to (7) of section 5 apply to an order under this section as they apply to an order under that section.
- (3) Where the Judicial Committee of the Privy Council or the Staff of Government Division allows an appeal against conviction, it may remit the case to the court by which the defendant was convicted to consider whether to proceed under this section.
- (4) Where —
 - (a) the Judicial Committee of the Privy Council or the Staff of Government Division allows an appeal against conviction; or
 - (b) a case is remitted under subsection (3),the reference in subsection (1) to a court before which a person is acquitted of an offence is to be read as referring to the Judicial Committee of the Privy Council, the Staff of Government Division or the court which heard the original matter under appeal (as the case requires).
- (5) A person made subject to an order under this section has the same right of appeal against the order as if, —
 - (a) the person had been convicted of the offence in question before the court which made the order; and
 - (b) the order had been made under section 5.²⁶

6 [Amends section 11 of the *Limitation Act 1984* by inserting subsection (1A).]

7 Interpretation

[P1997/40/7]

- (1) This section applies for the interpretation of this Act.
- (2) References to harassing a person include alarming the person or causing the person distress.
- (3) A “course of conduct” —
 - (a) in the case of conduct in relation to a single person (see section 1(1)) —
 - (i) must involve conduct on at least two occasions in relation to that person, unless subparagraph (ii) applies;
 - (ii) need only involve conduct on one occasion if —
 - (A) the person undertaking the conduct has been convicted of an offence under either section 2, 2A, 4 or 4A; and

- (B) the person towards whom the conduct is directed is a person who was harassed or put in fear by the conduct to which the conviction relates;
- (b) in the case of conduct in relation to two or more persons (see section 1(1A)), must involve conduct on at least one occasion in relation to each of those persons.
- (4) A person's conduct on any occasion shall be taken, if aided, abetted, counselled or procured by another –
 - (a) to be conduct on that occasion of the other (as well as conduct of the person whose conduct it is); and
 - (b) to be conduct in relation to which the other's knowledge and purpose, and what the other ought to have known, are the same as they were in relation to what was contemplated or reasonably foreseeable at the time of the aiding, abetting, counselling or procuring.
- (5) “**Conduct**” includes speech.
- (6) References to a person, in the context of the harassment of a person, are references to a person who is an individual.²⁷

8 Short title and commencement

- (1) This Act may be cited as the Protection from Harassment Act 2000.
- (2) This Act shall come into operation on such day as the Department of Home Affairs may by order appoint and different days may be appointed for different provisions and for different purposes.²⁸

ENDNOTES

Table of Endnote References

- ¹ Para (b) amended by Justice Reform Act 2021 s 89.
- ² Subs (1) amended by Justice Reform Act 2021 s 89.
- ³ Subs (1A) inserted by Justice Reform Act 2021 s 89.
- ⁴ Subs (2) amended by Justice Reform Act 2021 s 89.
- ⁵ Subs (3) amended by Justice Reform Act 2021 s 89.
- ⁶ S 2 substituted by Justice Reform Act 2021 s 90.
- ⁷ S 2A inserted by Justice Reform Act 2021 s 91.
- ⁸ S 2B inserted by Justice Reform Act 2021 s 91.
- ⁹ Subs (1) amended by Justice Reform Act 2021 s 92.
- ¹⁰ Para (b) amended by Justice Reform Act 2021 s 92.
- ¹¹ Para (b) amended by Justice Reform Act 2021 s 92.
- ¹² Para (b) amended by Justice Reform Act 2021 s 92.
- ¹³ Subs (6) amended by Justice Reform Act 2021 s 92.
- ¹⁴ Para (b) amended by Justice Reform Act 2021 s 92.
- ¹⁵ S 3A inserted by Justice Reform Act 2021 s 93.
- ¹⁶ S 4 substituted by Justice Reform Act 2021 s 94.
- ¹⁷ S 4A inserted by Justice Reform Act 2021 s 95.
- ¹⁸ S 5 heading amended by Justice Reform Act 2021 s 96.
- ¹⁹ Subs (1) amended by Justice Reform Act 2021 s 96.
- ²⁰ Subs (2) amended by Justice Reform Act 2021 s 96.
- ²¹ Subs (3A) inserted by Justice Reform Act 2021 s 96.
- ²² Subs (4A) inserted by Justice Reform Act 2021 s 96.
- ²³ Subs (5) substituted by Justice Reform Act 2021 s 96.
- ²⁴ Para (b) amended by Justice Reform Act 2021 s 96.
- ²⁵ Subs (7) inserted by Justice Reform Act 2021 s 96.
- ²⁶ S 5A inserted by Justice Reform Act 2021 s 97.
- ²⁷ S 7 substituted by Justice Reform Act 2021 s 98.
- ²⁸ ADO (whole Act) 18/10/2000 (SD623/00).