



# Domestic Abuse (Scotland) Act 2018

## 2018 asp 5

### PART 1

#### OFFENCE AS TO DOMESTIC ABUSE

##### *Engaging in course of abusive behaviour*

#### **1 Abusive behaviour towards partner or ex-partner**

- (1) A person commits an offence if—
- (a) the person (“A”) engages in a course of behaviour which is abusive of A's partner or ex-partner (“B”), and
  - (b) both of the further conditions are met.
- (2) The further conditions are—
- (a) that a reasonable person would consider the course of behaviour to be likely to cause B to suffer physical or psychological harm,
  - (b) that either—
    - (i) A intends by the course of behaviour to cause B to suffer physical or psychological harm, or
    - (ii) A is reckless as to whether the course of behaviour causes B to suffer physical or psychological harm.
- (3) In the further conditions, the references to psychological harm include fear, alarm and distress.

#### **Commencement Information**

- II** S. 1 in force at 1.4.2019 by S.S.I. 2018/387, **reg. 2** (with **reg. 4**)

#### **2 What constitutes abusive behaviour**

- (1) Subsections (2) to (4) elaborate on section 1(1) as to A's behaviour.
- (2) Behaviour which is abusive of B includes (in particular)—

*Status: Point in time view as at 01/04/2019.*

**Changes to legislation:** *There are currently no known outstanding effects for the Domestic Abuse (Scotland) Act 2018, Cross Heading: Engaging in course of abusive behaviour. (See end of Document for details)*

- (a) behaviour directed at B that is violent, threatening or intimidating,
- (b) behaviour directed at B, at a child of B or at another person that either—
  - (i) has as its purpose (or among its purposes) one or more of the relevant effects set out in subsection (3), or
  - (ii) would be considered by a reasonable person to be likely to have one or more of the relevant effects set out in subsection (3).
- (3) The relevant effects are of—
  - (a) making B dependent on, or subordinate to, A,
  - (b) isolating B from friends, relatives or other sources of support,
  - (c) controlling, regulating or monitoring B's day-to-day activities,
  - (d) depriving B of, or restricting B's, freedom of action,
  - (e) frightening, humiliating, degrading or punishing B.
- (4) In subsection (2)—
  - (a) in paragraph (a), the reference to violent behaviour includes sexual violence as well as physical violence,
  - (b) in paragraph (b), the reference to a child is to a person who is under 18 years of age.

**Commencement Information**

**I2** S. 2 in force at 1.4.2019 by S.S.I. 2018/387, reg. 2 (with reg. 4)

**3 Extra-territorial jurisdiction**

- (1) An offence under section 1(1) can be constituted by a course of behaviour engaged in by A even if the course of behaviour occurs wholly or partly outside the United Kingdom.
- (2) If the course of behaviour occurs wholly outside the United Kingdom—
  - (a) A may be prosecuted, tried and punished for the offence—
    - (i) in a sheriff court district in which A is apprehended or in custody, or
    - (ii) in a sheriff court district that is determined by the Lord Advocate, as if the offence has been committed entirely in that district,
  - (b) the offence is, for all things incidental to or consequential on trial and punishment, deemed to have been committed entirely in that district.
- (3) Subsections (1) and (2) apply only if A, when the course of behaviour occurs—
  - (a) is habitually resident in Scotland, or
  - (b) is a UK national.
- (4) “UK national” means someone who is, as referred to in the British Nationality Act 1981—
  - (a) a British citizen,
  - (b) a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen, or
  - (c) a British subject or a British protected person.

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**Commencement Information**

**I3** S. 3 in force at 1.4.2019 by S.S.I. 2018/387, **reg. 2** (with reg. 4)

**Status:**

Point in time view as at 01/04/2019.

**Changes to legislation:**

There are currently no known outstanding effects for the Domestic Abuse (Scotland) Act 2018,  
Cross Heading: Engaging in course of abusive behaviour.