

These notes refer to the Protection from Stalking Act (Northern Ireland) 2022 (c.17) which received Royal Assent on 26 April 2022

Protection from Stalking Act (Northern Ireland) 2022

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 6 to 17 – Stalking Protection Orders

Section 11 - Interim stalking protection orders

This section sets out a description of an interim stalking protection order. It also sets out the powers of a court of summary jurisdiction to make an interim stalking protection order; who may apply for an interim order, what may be included in the terms of an interim order and the duration of an interim order.

The purpose of this provision is to protect the victim whilst the main application for the stalking protection order is being determined.

Subsection (1) provides that interim orders can prohibit the defendant from doing something, or require the defendant to do something, as the court deems appropriate.

Subsection (3) provides that interim stalking protection orders will be available on application to a court of summary jurisdiction by the Chief Constable, either at the same time as the “main” application is made under section 7, or in a separate application if the “main” application has already been made.

Subsection (4) provides that the prohibitions and requirements included within the terms of an interim order must, so far as is practicable, avoid conflict with the defendant’s religious beliefs, or their work or educational obligations. The intention of this subsection is to ensure that the terms of the interim order are among other things proportionate. This is also designed to enable workability of orders and to avoid conflict with ECHR rights.

Subsection (5) provides that the defendant must comply with a prohibition or requirement in all parts of the United Kingdom, unless it is expressly limited to a particular locality. If the defendant lives in NI or was resident in NI when the order was made, or is a UK national then they must comply with any prohibition or requirement in the order, everywhere outside the UK.

For example, any prohibition in the order that prohibits any form of contact with the victim must be complied with even if the defendant was to travel outside NI or the UK.

Subsections (6), (9) and (10) deal with the duration of an interim order. The starting point is that an interim order has effect only for a fixed period specified in the order (although the order can be discharged early, or the period varied, or the order renewed).

If a stalking protection order is made on the main application, or if the main application is withdrawn, the interim order lapses then if it is still in force.

If the court decides not to make a stalking protection order on the main application, and the interim order is still in force at the time of that decision, then the interim order (instead of ending at the end of the fixed period) comes to an end on the first occasion when: there is no pending appeal by the Chief Constable to the county court against the refusal; the period, or extended period, for appealing has expired; and there is no pending application made pre-expiry for extension (or further extension) of that period.

Subsection (7) provides that the defendant or the Chief Constable may apply to a magistrates' court for that order to be varied, renewed or discharged. The process for varying, renewing or discharging orders is set out at section 10.