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# Criminal Justice and Police Act 2001

## 2001 CHAPTER 16

### PART 1

#### PROVISIONS FOR COMBATTING CRIME AND DISORDER

### CHAPTER 3

#### OTHER PROVISIONS FOR COMBATTING CRIME AND DISORDER

*Further provision about intimidation etc.*

#### **42 Police directions stopping the harassment etc of a person in his home**

- (1) Subject to the following provisions of this section, a constable who is at the scene may give a direction under this section to any person if—
- (a) that person is present outside or in the vicinity of any premises that are used by any individual (“the resident”) as his dwelling;
  - (b) that constable believes, on reasonable grounds, that that person is present there for the purpose (by his presence or otherwise) of representing to the resident or another individual (whether or not one who uses the premises as his dwelling), or of persuading the resident or such another individual—
    - (i) that he should not do something that he is entitled or required to do; or
    - (ii) that he should do something that he is not under any obligation to do;and
  - (c) that constable also believes, on reasonable grounds, that the presence of that person (either alone or together with that of any other persons who are also present)—
    - (i) amounts to, or is likely to result in, the harassment of the resident; or
    - (ii) is likely to cause alarm or distress to the resident.

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- (2) A direction under this section is a direction requiring the person to whom it is given to do all such things as the constable giving it may specify as the things he considers necessary to prevent one or both of the following—
- (a) the harassment of the resident; or
  - (b) the causing of any alarm or distress to the resident.
- (3) A direction under this section may be given orally; and where a constable is entitled to give a direction under this section to each of several persons outside, or in the vicinity of, any premises, he may give that direction to those persons by notifying them of his requirements either individually or all together.
- [<sup>F1</sup>(4) The requirements that may be imposed by a direction under this section include—
- (a) a requirement to leave the vicinity of the premises in question, and
  - (b) a requirement to leave that vicinity and not to return to it within such period as the constable may specify, not being longer than 3 months;
- and (in either case) the requirement to leave the vicinity may be to do so immediately or after a specified period of time.]
- (5) A direction under this section may make exceptions to any requirement imposed by the direction, and may make any such exception subject to such conditions as the constable giving the direction thinks fit; and those conditions may include—
- (a) conditions as to the distance from the premises in question at which, or otherwise as to the location where, persons who do not leave their vicinity must remain; and
  - (b) conditions as to the number or identity of the persons who are authorised by the exception to remain in the vicinity of those premises.
- (6) The power of a constable to give a direction under this section shall not include—
- (a) any power to give a direction at any time when there is a more senior-ranking police officer at the scene; or
  - (b) any power to direct a person to refrain from conduct that is lawful under section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52) (right peacefully to picket a work place);
- but it shall include power to vary or withdraw a direction previously given under this section.
- (7) Any person who knowingly [<sup>F2</sup>fails to comply with a requirement in a direction given to him under this section (other than a requirement under subsection (4)(b))] shall be guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding level 4 on the standard scale, or to both.
- [<sup>F3</sup>(7A) Any person to whom a constable has given a direction including a requirement under subsection (4)(b) commits an offence if he—
- (a) returns to the vicinity of the premises in question within the period specified in the direction beginning with the date on which the direction is given; and
  - (b) does so for the purpose described in subsection (1)(b).
- (7B) A person guilty of an offence under subsection (7A) shall be liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 4 on the standard scale, or to both.

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(7C) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the reference in subsection (7B) to 51 weeks is to be read as a reference to 6 months.]

(8) <sup>F4</sup> .....

(9) In this section “dwelling” has the same meaning as in Part 1 of the Public Order Act 1986 (c. 64).

#### Textual Amendments

- F1** S. 42(4) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 127\(2\), 178; S.I. 2005/1521, art. 3\(1\)\(m\)](#) (subject to arts. 3(4)(5))
- F2** Words in s. 42(7) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 127\(3\), 178; S.I. 2005/1521, art. 3\(1\)\(m\)](#) (subject to arts. 3(4)(5))
- F3** S. 42(7A)-(7C) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 127\(4\), 178; S.I. 2005/1521, art. 3\(1\)\(m\)](#) (subject to arts. 3(4)(5))
- F4** S. 42(8) repealed (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 111, 174\(2\), 178, Sch. 7 para. 35\(a\), Sch. 17 Pt. 2; S.I. 2005/3495, art. 2\(1\)](#) (subject to art. 2(2))

#### [<sup>F5</sup>42A Offence of harassment etc. of a person in his home

- (1) A person commits an offence if—
- (a) that person is present outside or in the vicinity of any premises that are used by any individual (“the resident”) as his dwelling;
  - (b) that person is present there for the purpose (by his presence or otherwise) of representing to the resident or another individual (whether or not one who uses the premises as his dwelling), or of persuading the resident or such another individual—
    - (i) that he should not do something that he is entitled or required to do; or
    - (ii) that he should do something that he is not under any obligation to do;
  - (c) that person—
    - (i) intends his presence to amount to the harassment of, or to cause alarm or distress to, the resident; or
    - (ii) knows or ought to know that his presence is likely to result in the harassment of, or to cause alarm or distress to, the resident; and
  - (d) the presence of that person—
    - (i) amounts to the harassment of, or causes alarm or distress to, any person falling within subsection (2); or
    - (ii) is likely to result in the harassment of, or to cause alarm or distress to, any such person.
- (2) A person falls within this subsection if he is—
- (a) the resident,
  - (b) a person in the resident's dwelling, or
  - (c) a person in another dwelling in the vicinity of the resident's dwelling.
- (3) The references in subsection (1)(c) and (d) to a person's presence are references to his presence either alone or together with that of any other persons who are also present.

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- (4) For the purposes of this section a person (A) ought to know that his presence is likely to result in the harassment of, or to cause alarm or distress to, a resident if a reasonable person in possession of the same information would think that A's presence was likely to have that effect.
- (5) A person guilty of an offence under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 4 on the standard scale, or to both.
- (6) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the reference in subsection (5) to 51 weeks is to be read as a reference to 6 months.
- (7) In this section “dwelling” has the same meaning as in Part 1 of the Public Order Act 1986.]

#### Textual Amendments

- F5** S. 42A inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 126\(1\)](#), 178; [S.I. 2005/1521](#), [art. 3\(1\)\(m\)](#) (subject to [art. 3\(4\)\(5\)](#))

### 43 Malicious communications

- (1) In subsection (1) of section 1 of the Malicious Communications Act 1988 (c. 27) (offence of sending letters and other articles with intent to cause distress or anxiety)—
  - (a) in paragraph (a), for “letter or other article” there shall be substituted “ letter, electronic communication or article of any description ”; and
  - (b) in paragraph (b), for the word “other article” there shall be substituted “ article or electronic communication ”.
- (2) In subsection (2) of that section (defence of making a threat in the belief that it was a proper way of reinforcing a demand and that there were reasonable grounds for making that demand)—
  - (a) in paragraph (a), for “which he believed he had reasonable grounds for making” there shall be substituted “ made by him on reasonable grounds ”; and
  - (b) in paragraph (b), after “believed” there shall be inserted “ , and had reasonable grounds for believing, ”.
- (3) After that subsection there shall be inserted—
 

“(2A) In this section “electronic communication” includes—

  - (a) any oral or other communication by means of a telecommunication system (within the meaning of the Telecommunications Act 1984 (c. 12)); and
  - (b) any communication (however sent) that is in electronic form.”
- (4) In subsection (3) of that section (definition of “send”)—
  - (a) after “delivering” there shall be inserted “ or transmitting ”; and
  - (b) for “or delivered” there shall be substituted “ , delivered or transmitted ”.
- (5) In subsection (5) of that section (penalty for offence), for “a fine not exceeding level 4 on the standard scale” there shall be substituted “ imprisonment for a term not

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exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both ”.

- (6) Subsection (5) does not affect the penalty for an offence committed before the day on which this Act is passed.

#### 44 Collective harrassment

- (1) In section 7 of the Protection from Harassment Act 1997 (c. 40) (interpretation of sections 1 to 5), there shall be inserted the following subsection—

“(3A) 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 he 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.”

- (2) This section has effect in relation to any aiding, abetting, counselling or procuring that takes place after the coming into force of this section.

#### F6 45 Addresses of directors and secretaries of companies

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##### Textual Amendments

- F6** S. 45 repealed (20.1.2007 for specified purposes, 1.10.2009 in so far as not already in force) by Companies Act 2006 (c. 46), s. 1300(2), **Sch. 16**; S.I. 2006/3428, art. 7(b), Sch. 3 Pt. 1 (with arts. 68(2)); S.I. 2008/2860, art. 4, Sch. 1 Pt. 1 (with arts. 78Sch. 2) (which transitional provisions in Sch. 2 are amended (1.10.2009) by S.I. 2009/2476, arts. 1(3), 2(3)(4) and by S.I. 2009/1802, arts. 1, 18, Sch.)

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