

Status: This version of this provision is prospective.

Changes to legislation: Domestic Abuse Act 2021, Section 39 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes



Domestic Abuse Act 2021

2021 CHAPTER 17

PART 3

POWERS FOR DEALING WITH DOMESTIC ABUSE

Domestic abuse protection orders

PROSPECTIVE

39 Breach of order

- (1) A person who is subject to a domestic abuse protection order commits an offence if without reasonable excuse the person fails to comply with any requirement imposed by the order.
- (2) In a case where the order was made against the person without that person being given notice of the proceedings, the person commits an offence under this section only in respect of behaviour engaged in at a time when the person was aware of the existence of the order.

(See also section 45(8) and (9), which makes similar provision where an order has been varied.)

- (3) Where a person is convicted of an offence under this section in respect of any behaviour, that behaviour is not punishable as a contempt of court.
- (4) A person may not be convicted of an offence under this section in respect of any behaviour which has been punished as a contempt of court.
- (5) A person guilty of an offence under this section is liable—
 - (a) on summary conviction—
 - (i) to imprisonment for a term not exceeding [^{F1}the general limit in a magistrates' court] (or 6 months, if the offence was committed before [^{F2}2 May 2022]), or

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- (ii) to a fine,
or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or both.
- (6) If a person is convicted of an offence under this section, it is not open to the court by or before which the person is convicted to make, in respect of the offence, an order under section 80 of the Sentencing Code (conditional discharge).
- (7) If a person is convicted of an offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is an offence under this section, it is not open to the service court that convicted the person to make, in respect of the offence, an order under section 185 of that Act (conditional discharge).
- In this subsection “service court” means the Court Martial or the Service Civilian Court.
- (8) In proceedings for an offence under this section, a copy of the original domestic abuse protection order, certified by the proper officer of the court that made it, is admissible as evidence of its having been made and of its contents to the same extent that oral evidence of those matters is admissible in those proceedings.

Textual Amendments

- F1** Words in s. 39(5)(a)(i) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates’ Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), **Sch. Pt. 1**
- F2** Words in s. 39(5)(a)(i) substituted (28.4.2022) by [The Criminal Justice Act 2003 \(Commencement No. 33\) and Sentencing Act 2020 \(Commencement No. 2\) Regulations 2022 \(S.I. 2022/500\)](#), regs. 1(2), 5(1), **Sch. Pt. 1**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 49A49B and cross-heading inserted by [2024 c. 21 s. 20\(2\)](#)
- s. 56(4)(c) inserted by [2024 c. 21 s. 20\(4\)](#)
- s. 87(6)(aa) inserted by [2024 c. 21 s. 20\(5\)](#)