



# Domestic Abuse (Scotland) Act 2011

## 2011 asp 13

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 16th March 2011 and received Royal Assent on 20th April 2011**

An Act of the Scottish Parliament to amend the Protection from Harassment Act 1997 by making provision in relation to harassment amounting to domestic abuse; to make breach of an interdict relating to domestic abuse with a power of arrest attached an offence; and for connected purposes.

### *Harassment amounting to domestic abuse*

#### **1 Harassment amounting to domestic abuse**

- (1) In section 8 (harassment) of the Protection from Harassment Act 1997 (c.40), after subsection (1) insert—

“(1A) Subsection (1) is subject to section 8A.”

- (2) After that section insert—

#### **“8A Harassment amounting to domestic abuse**

- (1) Every individual has a right to be free from harassment and, accordingly, a person must not engage in conduct which amounts to harassment of another and—
- (a) is intended to amount to harassment of that person; or
  - (b) occurs in circumstances where it would appear to a reasonable person that it would amount to harassment of that person.
- (2) Subsection (1) only applies where the conduct referred to amounts to domestic abuse.
- (3) Subsections (2) to (7) of section 8 apply in relation to subsection (1) as they apply in relation to subsection (1) of that section but with the following modifications—
- (a) in subsections (2) and (4), the words “course of” are omitted;
  - (b) for subsection (3) there is substituted—

“(3) For the purposes of this section—

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*Changes to legislation:* There are currently no known outstanding effects for the Domestic Abuse (Scotland) Act 2011. (See end of Document for details)

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“conduct”—

- (a) may involve behaviour on one or more than one occasion; and
- (b) includes—
  - (i) speech; and
  - (ii) presence in any place or area; and

“harassment” of a person includes causing the person alarm or distress.”; and

- (c) in subsection (4)(b), for “pursued” substitute “engaged in”.

- (3) In section 9(1) (breach of non-harassment order) of that Act, after “section 8” insert “or section 8A”.
- (4) In section 18B(1) (actions of harassment) of the Prescription and Limitation (Scotland) Act 1973 (c.52), after “section 8” insert “or section 8A”.
- (5) In section 2(1)(b)(ii) (transmission of deceased's rights to executor) of the Damages (Scotland) Act 2011 (asp 7), after “section 8” insert “or section 8A”.

### *Breach of domestic abuse interdict with power of arrest*

## **2 Breach of domestic abuse interdict with power of arrest**

- (1) This section applies where—
  - (a) on or after the date on which this section comes into force, an interdict is granted against a person,
  - (b) a determination has been made under section 3(1) that the interdict is a domestic abuse interdict,
  - (c) that determination is in effect,
  - (d) a power of arrest is attached to the interdict under section 1(1A) or (2) of the Protection from Abuse (Scotland) Act 2001 (asp 14), and
  - (e) that power of arrest is in effect.
- (2) A person who breaches an interdict to which this section applies is guilty of an offence.
- (3) A person guilty of an offence under subsection (2) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both,
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or to both.
- (4) Following conviction, a breach of an interdict to which this section applies is not punishable other than in accordance with subsection (3).
- (5) Where a person is convicted of an offence under this section in respect of any conduct, that conduct is not punishable as a contempt of court.
- (6) A person cannot be convicted of an offence under this section in respect of any conduct which has been punished as a contempt of court.
- (7) In this section and section 3, “interdict” includes interim interdict.