



Protection from Stalking Act (Northern Ireland) 2022

2022 CHAPTER 17

An Act to provide protection from stalking, and from threatening or abusive behaviour, and for related purposes. [26th April 2022]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Offences

Offence of stalking

1.—(1) A person (“A”) commits an offence (in this Act referred to as the offence of stalking) where—

- (a) A engages in a course of conduct,
- (b) A’s course of conduct—
 - (i) causes another person (“B”) to suffer fear, alarm or substantial distress, or
 - (ii) is such that a reasonable person, or a reasonable person who has any particular knowledge of B that A has, would consider to be likely to cause B to suffer fear, alarm or substantial distress, and
- (c) at least one of the further conditions applies.

(2) The further conditions are—

- (a) that A engages in the course of conduct with the intention of causing B to suffer fear, alarm or substantial distress;
- (b) that A knows, or ought in all the circumstances to have known, that engaging in the course of conduct would be likely to cause B to suffer fear, alarm or substantial distress.

(3) If—

- (a) A is a UK national or is habitually resident in Northern Ireland, and
- (b) A's course of conduct consists of or includes conduct occurring in a country, or territory, outside the United Kingdom,

the course of conduct is to be treated for the purposes of this section as if it occurred in Northern Ireland.

(4) In subsections (1) to (3) and this subsection—

“conduct” means—

- (a) following B or any other person,
- (b) contacting, or attempting to contact, B or any other person by any means,
- (c) publishing any statement or other material—
 - (i) relating or purporting to relate to B or to any other person, or
 - (ii) purporting to originate from B or from any other person,
- (d) monitoring the use by B or by any other person of the internet, email or any other form of electronic communication,
- (e) entering any premises,
- (f) loitering in any place (whether public or private),
- (g) interfering with any property in the possession of B or of any other person,
- (h) giving anything to B or to any other person or leaving anything where it may be found by, given to or brought to the attention of B or any other person,
- (i) watching or spying on B or any other person, or
- (j) acting in any other way that a reasonable person, or a reasonable person who has any particular knowledge of B that A has, would expect would cause B to suffer fear, alarm or substantial distress;

“course of conduct” involves conduct on two or more occasions;

“substantial distress” means distress that has a substantial adverse effect on B's day to day activities.

(5) It is a defence for a person charged with the offence of stalking to show that the course of conduct—

- (a) was authorised by virtue of any statutory provision or rule of law,

- (b) was engaged in for the purpose of preventing or detecting crime, or
- (c) was reasonable in the particular circumstances.
- (6) A person who commits the offence of stalking is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding 10 years or a fine (or both), or
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both).
- (7) In proceedings in respect of a charge against a person of the offence of stalking, the person may be convicted of an offence under section 2 if the facts proved against the person—
 - (a) do not amount to the offence of stalking, but
 - (b) do amount to the offence under section 2.
- (8) Subsection (7) is without prejudice to section 6(2) of the Criminal Law Act (Northern Ireland) 1967 (alternative verdicts on trial on indictment).
- (9) In this section “statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Offence of threatening or abusive behaviour

- 2.—(1) A person (“A”) commits an offence if—
- (a) A behaves in a threatening or abusive manner,
 - (b) the behaviour would be likely to cause a reasonable person to suffer fear or alarm, and
 - (c) A intends by the behaviour to cause fear or alarm or is reckless as to whether the behaviour causes fear or alarm.
- (2) It is a defence for a person charged with an offence under subsection (1) to show that the behaviour was reasonable in the particular circumstances.
- (3) Subsection (1) applies to—
- (a) behaviour of any kind including, in particular, things said or otherwise communicated as well as things done, and
 - (b) behaviour consisting of—
 - (i) a single act, or
 - (ii) a course of conduct.
- (4) A person guilty of an offence under subsection (1) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both), or
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both).

Special measures directions

3.—(1) The Criminal Evidence (Northern Ireland) Order 1999 is amended as follows.

(2) In Article 5(5) (offences where witnesses are eligible for assistance with giving evidence), after sub-paragraph (c) add—

“(d) an offence under section 1 of the Protection from Stalking Act (Northern Ireland) 2021.”.

(3) After Article 22A insert—

“Complainants in proceedings involving stalking

22B. No person charged with an offence under section 1 of the Protection from Stalking Act (Northern Ireland) 2021 may in any criminal proceedings cross-examine in person a witness who is the complainant, either—1 of the Protection from Stalking Act (Northern Ireland) 2021 may in any criminal proceedings cross-examine in person a witness who is the complainant, either—

(a) in connection with that offence, or

(b) in connection with any other offence (of whatever nature) with which that person is charged in the proceedings.”.

(4) In Article 23 (protection of children from cross-examination by defendant in person)—

(a) in paragraph (3), after sub-paragraph (cd) insert—

“(ce) an offence under section 1 of the Protection from Stalking Act (Northern Ireland) 2021;”;

(b) in paragraph (4)(a), for “or (cd)” substitute “, (cd) or (ce)”.

(5) In Article 24 (direction prohibiting defendant from cross-examining particular witnesses)—

(a) in paragraph (1), after “22A” insert “, 22B”;

(b) in paragraph (3)(e), after “22A”, in both places it occurs, insert “, 22B”.

(6) In Article 26(1) (defence representation for purposes of cross-examination), after “22A,” insert “22B,”.

(7) In Article 27(1) (warning to jury), after “22A,” insert “22B,”.

Alternative to conviction of the domestic abuse offence

4. In section 13(2) of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 (alternatives to the domestic abuse offence), after paragraph (b) add—

- “(c) an offence under section 1 of the Protection from Stalking Act (Northern Ireland) 2021 (offence of stalking),
- (d) an offence under section 2 of that Act (offence of threatening or abusive behaviour).”.

No right to claim trial by jury

5. In Article 29(1) of the Magistrates’ Courts (Northern Ireland) Order 1981 (right to claim trial by jury for certain summary offences but not those listed in the sub-paragraphs), after sub-paragraph (q) add—

- “(r) section 1 or 2 of the Protection from Stalking Act (Northern Ireland) 2021.”.

*Stalking protection orders***Meaning of act associated with stalking and risk associated with stalking**

6.—(1) This section applies for the purposes of this section and sections 7 to 10.

(2) An “act associated with stalking” is any of the following—

- (a) following a person;
- (b) contacting, or attempting to contact, a person by any means;
- (c) publishing any statement or other material—
 - (i) relating or purporting to relate to a person, or
 - (ii) purporting to originate from a person;
- (d) monitoring the use by a person of the internet, email or any other form of electronic communication;
- (e) entering any premises;
- (f) loitering in any place (whether public or private);
- (g) interfering with any property in the possession of a person;
- (h) giving anything to a person or leaving anything where it may be found by, given to or brought to the attention of a person;
- (i) watching or spying on a person;
- (j) acting in any other way that it would be reasonable to expect would cause a reasonable person to suffer fear, alarm or substantial distress.

(3) A “risk associated with stalking” is a risk of—

- (a) a person carrying out acts associated with stalking, and
- (b) another person being a victim of those acts (if carried out).