

Stalking Protection Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Home Office with the consent of Baroness Bertin, the member in charge of the Bill, are published separately as HL Bill 145 – EN.

Stalking Protection Bill

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TO

Make provision for orders to protect persons from risks associated with stalking; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Stalking protection orders

1 Applications for orders

- (1) A chief officer of police may apply to a magistrates’ court for an order (a “stalking protection order”) in respect of a person (the “defendant”) if it appears to the chief officer that— 5
- (a) the defendant has carried out acts associated with stalking,
 - (b) the defendant poses a risk associated with stalking to another person, and
 - (c) there is reasonable cause to believe the proposed order is necessary to protect another person from such a risk (whether or not the other person was the victim of the acts mentioned in paragraph (a)). 10
- (2) A stalking protection order is an order which, for the purpose of preventing the defendant from carrying out acts associated with stalking—
- (a) prohibits the defendant from doing anything described in the order, or
 - (b) requires the defendant to do anything described in the order. 15
- (3) A chief officer of police for a police area in England and Wales may apply for a stalking protection order only in respect of a person—
- (a) who resides in the chief officer’s police area, or
 - (b) who the chief officer believes is in that area or is intending to come to it.
- (4) A risk associated with stalking— 20
- (a) may be in respect of physical or psychological harm to the other person;
 - (b) may arise from acts which the defendant knows or ought to know are unwelcome to the other person even if, in other circumstances, the acts would appear harmless in themselves.

- (5) It does not matter –
- (a) whether the acts mentioned in subsection (1)(a) were carried out in a part of the United Kingdom or elsewhere, or
 - (b) whether they were carried out before or after the commencement of this section. 5
- (6) See section 2A of the Protection from Harassment Act 1997 for examples of acts associated with stalking.

2 Power to make orders

- (1) A magistrates' court may make a stalking protection order on an application under section 1(1) if satisfied that – 10
- (a) the defendant has carried out acts associated with stalking,
 - (b) the defendant poses a risk associated with stalking to another person, and
 - (c) the proposed order is necessary to protect another person from such a risk (whether or not the other person was the victim of the acts mentioned in paragraph (a)). 15
- (2) A magistrates' court may include a prohibition or requirement in a stalking protection order only if satisfied that the prohibition or requirement is necessary to protect the other person from a risk associated with stalking.
- (3) Prohibitions or requirements must, so far as practicable, be such as to avoid – 20
- (a) conflict with the defendant's religious beliefs, and
 - (b) interference with any times at which the defendant normally works or attends an educational establishment.
- (4) A prohibition or requirement has effect in all parts of the United Kingdom unless expressly limited to a particular locality. 25
- (5) It does not matter –
- (a) whether the acts mentioned in subsection (1)(a) were carried out in a part of the United Kingdom or elsewhere, or
 - (b) whether they were carried out before or after the commencement of this section. 30
- (6) Subsection (7) applies where a magistrates' court makes a stalking protection order in relation to a defendant who is already subject to such an order (whether made by that court or another).
- (7) The court may not include any prohibition or requirement in the new stalking protection order which is incompatible with a prohibition or requirement in the earlier stalking protection order. 35

3 Duration of orders

- (1) A stalking protection order has effect –
- (a) for a fixed period specified in the order, or
 - (b) until a further order. 40
- (2) Where a fixed period is specified it must be a period of at least 2 years beginning with the day on which the order is made.

- (3) Different periods may be specified in relation to different prohibitions or requirements.

4 Variations, renewals and discharges

- (1) The defendant or a relevant chief officer of police (see section 14(1)) may apply to a magistrates' court for an order varying, renewing or discharging a stalking protection order. 5
- (2) Before making a decision on an application under subsection (1), the court must hear –
- (a) the defendant, and
 - (b) any relevant chief officer of police who wants to be heard. 10
- (3) On an application under subsection (1) the court may make any order varying, renewing or discharging the stalking protection order that the court considers appropriate.
- (4) But the court may not –
- (a) in renewing or varying an order, impose an additional prohibition or requirement unless satisfied that it is necessary to do so in order to protect a person from a risk associated with stalking; 15
 - (b) discharge an order before the end of 2 years beginning with the day on which the order was made without the consent of the defendant and –
 - (i) where the application was made by a chief officer of police, that chief officer, 20
 - (ii) in any other case, the chief officer of police who applied for the stalking protection order and (if different) the chief officer of police for the area in which the defendant resides, if that area is in England or Wales. 25

5 Interim stalking protection orders

- (1) This section applies where an application for a stalking protection order (the “main application”) has not been determined.
- (2) A magistrates' court may make an order (an “interim stalking protection order”) in respect of the defendant on an application – 30
- (a) made at the same time and by the same chief officer of police as the main application, or
 - (b) if the main application has already been made, made by the chief officer of police who made that application.
- (3) The court may, if it considers it appropriate to do so, make an interim stalking protection order – 35
- (a) prohibiting the defendant from doing anything described in the order, or
 - (b) requiring the defendant to do anything described in the order.
- (4) Prohibitions or requirements must, so far as practicable, be such as to avoid – 40
- (a) conflict with the defendant's religious beliefs, and
 - (b) interference with any times at which the defendant normally works or attends an educational establishment.

- (5) A prohibition or requirement has effect in all parts of the United Kingdom unless expressly limited to a particular locality.
- (6) An interim stalking protection order –
- (a) has effect only for a fixed period specified in the order, and
 - (b) ceases to have effect, if it has not already done so, on the determination of the main application. 5
- (7) The defendant or the chief officer of police who applied for an interim stalking protection order may apply to a magistrates' court for an order varying, renewing or discharging the interim stalking protection order.
- (8) On an application under subsection (7), the court may make any order varying, renewing or discharging the stalking protection order that the court considers appropriate. 10

6 Content of orders

- A stalking protection order and an interim stalking protection order must specify – 15
- (a) the date on which the order is made;
 - (b) whether it has effect for a fixed period and, if it does, the length of that period;
 - (c) each prohibition or requirement that applies to the defendant;
 - (d) whether any prohibition or requirement is expressly limited to a particular locality and, if it is, what the locality is; 20
 - (e) whether any prohibition or requirement is subject to a fixed period which differs from the period for which the order has effect and, if it is, what that period is.

Appeals and enforcement 25

7 Appeals

- (1) A defendant may appeal to the Crown Court against –
- (a) the making of a stalking protection order,
 - (b) the making of an interim stalking protection order,
 - (c) the making of an order under section 4 on an application by a chief officer of police, or 30
 - (d) the refusal to make an order under section 4 on an application by the defendant.
- (2) A chief officer of police who applied for a stalking protection order, an interim stalking protection order or an order under section 4 may appeal to the Crown Court against – 35
- (a) the refusal to make a stalking protection order,
 - (b) the refusal to make an interim stalking protection order, or
 - (c) the refusal to make an order under section 4 on an application by the chief officer. 40
- (3) A relevant chief officer of police (see section 14(1)) may appeal to the Crown Court against the making of an order under section 4 on an application by the defendant.

- (4) On any such appeal, the Crown Court may make –
- (a) such orders as may be necessary to give effect to its determination of the appeal, and
 - (b) such incidental or consequential orders as appear to it to be appropriate.

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8 Offence of breaching stalking protection order etc

- (1) A person who, without reasonable excuse, breaches a stalking protection order or an interim stalking protection order commits an offence.
- (2) A person guilty of an offence under this section is liable –
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine or both, or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or both.
- (3) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (2)(a) to 12 months is to be read as a reference to 6 months.
- (4) 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 an order under subsection (1)(b) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 (conditional discharge).
- (5) In proceedings for an offence under this section, a copy of the original stalking protection order or interim stalking protection order, certified by the designated officer for the court which made it, is admissible as evidence of its having been made and of its contents to the same extent that oral evidence of those things is admissible in those proceedings.

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Notification requirements

9 Notification requirements

- (1) A person subject to –
- (a) a stalking protection order (other than one which replaces an interim stalking protection order), or
 - (b) an interim stalking protection order,
- must, within the period of 3 days beginning with the date of service of the order, notify to the police the information set out in subsection (2).
- (2) The information is –
- (a) the person's name and, where the person uses one or more other names, each of those names;
 - (b) the person's home address.
- (3) A person who –
- (a) is subject to a stalking protection order or an interim stalking protection order, and
 - (b) uses a name which has not been notified under this section,
- must, before the end of the period of 3 days beginning with the date on which that happens, notify to the police that name.

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- (4) A person who –
- (a) is subject to a stalking protection order or an interim stalking protection order, and
 - (b) changes home address,
- must, before the end of the period of 3 days beginning with the date on which that happens, notify to the police the new home address. 5
- (5) The requirements imposed by this section do not apply to a person who is subject to notification requirements under Part 2 of the Sexual Offences Act 2003.
- (6) Subsection (7) applies where – 10
- (a) a person is subject to a stalking protection order or an interim stalking protection order,
 - (b) at the time the order is made, the requirements imposed by this section do not apply to the person as a result of subsection (5),
 - (c) the person ceases on a subsequent day (“the final day”) to be subject to the notification requirements mentioned in that subsection, and 15
 - (d) the order remains in effect on the final day.
- (7) The requirements imposed by this section apply to the person as from the final day, but as if the reference in subsection (1) to the date of service of the order were a reference to the final day. 20

10 Method of notification and related matters

- (1) A person whose home address is in England or Wales gives a notification under section 9(1), (3) or (4) by –
- (a) attending at a police station in the person’s local police area, and
 - (b) giving an oral notification to a police officer, or to any person authorised for the purpose by the officer in charge of the station. 25
- (2) A person who does not have a home address in England or Wales gives a notification under section 9(1), (3) or (4) by –
- (a) attending at a police station in the local police area in which the magistrates’ court which last made a stalking protection order or an interim stalking protection order in respect of the person is situated, and 30
 - (b) giving an oral notification to a police officer, or to any person authorised for the purpose by the officer in charge of the station.
- (3) In relation to a person giving a notification under section 9(4), the references in subsections (1) and (2) to the person’s home address are references to – 35
- (a) the person’s new home address if the person gives the notification after changing home address, or
 - (b) the person’s old home address if the person gives the notification before changing home address. 40
- (4) A notification given in accordance with this section must be acknowledged –
- (a) in writing, and
 - (b) in such form as the Secretary of State may direct.
- (5) When a person gives notification under section 9(1), (3) or (4), the person must, if requested to do so by the police officer or person mentioned in subsection (1)(b), allow that officer or person to – 45

- (a) take the person's fingerprints,
 - (b) photograph any part of the person, or
 - (c) do both of these things.
- (6) The power in subsection (5) is exercisable for the purpose of verifying the identity of the person. 5

11 Offences relating to notification

- (1) A person commits an offence if the person –
- (a) fails, without reasonable excuse, to comply with section 9(1), (3) or (4), or with section 10(5), or
 - (b) notifies to the police, in purported compliance with section 9(1), (3) or (4), any information which the person knows to be false. 10
- (2) A person guilty of an offence under this section is liable –
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine or both, or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or both. 15
- (3) A person commits an offence under subsection (1)(a) on the day on which the person first fails, without reasonable excuse, to comply with section 9(1), (3) or (4).
- (4) The person continues to commit the offence throughout any period during which the failure continues. 20
- (5) But the person may not be prosecuted more than once in respect of the same failure.
- (6) Proceedings for an offence under this section may be commenced in any court having jurisdiction in any place where the person charged with the offence resides or is found. 25
- (7) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (2)(a) to 12 months is to be read as a reference to 6 months.

Guidance 30

12 Guidance

- (1) The Secretary of State must issue guidance to chief officers of police about the exercise of their functions under this Act.
- (2) The Secretary of State may, from time to time, revise the guidance issued under subsection (1). 35
- (3) The Secretary of State must arrange for any guidance issued or revised under this section to be published in such manner as the Secretary of State considers appropriate.

General

13 Procedure

- (1) An application to a magistrates' court under any provision of this Act is to be by complaint.
- (2) Section 127 of the Magistrates' Courts Act 1980 (time limits) does not apply to a complaint under any provision of this Act. 5

14 Interpretation

- (1) In this Act –
- “acts” includes omissions;
- “chief officer of police” means – 10
- (a) the chief constable of a police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);
- (b) the Commissioner of Police of the Metropolis;
- (c) the Commissioner of Police for the City of London; 15
- (d) the chief constable of the British Transport Police;
- (e) the chief constable of the Ministry of Defence Police;
- “defendant” has the meaning given by section 1(1);
- “home address”, in relation to a person, means –
- (a) the address of the person's sole or main residence in the United Kingdom, or 20
- (b) if the person has no such residence, the address or location of a place in the United Kingdom where the person can regularly be found and, if there is more than one such place, such of those places as the person may select; 25
- “interim stalking protection order” has the meaning given by section 5(2);
- “local police area”, in relation to a person, means –
- (a) the police area in which the person's home address is situated,
- (b) in the absence of a home address, the police area in which the home address last notified is situated (whether that notification was in accordance with the requirements imposed by section 9 or in accordance with notification requirements under Part 2 of the Sexual Offences Act 2003), or 30
- (c) in the absence of a home address and of any such notification, the police area in which the magistrates' court which last made a stalking protection order or an interim stalking protection order in respect of the person is situated; 35
- “magistrates' court”, in relation to a defendant under the age of 18, means “youth court”;
- “photograph” includes any process by means of which an image may be produced; 40
- “relevant chief officer of police”, in relation to an application for an order under section 4 or to an appeal under section 7, means –
- (a) the chief officer of police for the area in which the defendant resides, 45
- (b) a chief officer of police who believes that the defendant is in, or is intending to come to, that chief officer's police area, and

- (c) the chief officer of police who applied for the stalking protection order to which the application or appeal relates;
“stalking protection order” has the meaning given by section 1(1).
- (2) In this Act, references to a “risk associated with stalking” are to be read in accordance with section 1(4).

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15 Extent, commencement and short title

- (1) This Act extends to England and Wales only.
- (2) This section comes into force on the day on which this Act is passed.
- (3) The other provisions of this Act come into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.
- (4) This Act may be cited as the Stalking Protection Act 2018.

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Stalking Protection Bill

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To make provision for orders to protect persons from risks associated with stalking;
and for connected purposes.

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