

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10: Forced marriage

Section 121: Offence of forced marriage: England and Wales

322. The new offence of forced marriage catches a person who intentionally forces a person to enter into marriage, believing the person does not consent, or a person who deceives someone into going abroad for the specific purpose of forcing them to marry. An offence is committed whether or not the forced marriage goes ahead.
323. *Subsection (1)* makes it a criminal offence, under the law in England and Wales, for a person to use violence, threats or any other form of coercion for the purpose of causing another person to enter into a marriage without their free and full consent. Where the victim lacks the capacity to consent (within the meaning of the Mental Capacity Act 2005) the offence is capable of being committed by any conduct carried out for the purpose of causing the victim to marry, whether or not it amounts to violence, threats or any other form of coercion (*subsection (2)*).
324. *Subsection (3)* additionally captures as a criminal offence any form of deception practised with the intention both of causing another person to leave the United Kingdom (“UK”) to travel to another country and that the other person be subjected to conduct that is an offence under subsection (1) or would be an offence if the victim were in England and Wales.
325. *Subsection (4)* provides that “marriage” means any religious or civil ceremony of marriage recognised by the customs of the parties to it, or the laws of any country in which it is carried out, as constituting a binding agreement, whether or not it would be legally binding according to the law of England and Wales.
326. *Subsection (6)* provides that an offence is committed whether the violence, threats or other forms of coercion are directed at the victim of a forced marriage or another person.
327. *Subsection (7)* and *(8)* make provision to take extra-territorial jurisdiction over both the coercion and deception elements of the new offence. Any of the prohibited acts in subsections (1) and (2) carried out outside the UK by a UK national or person habitually resident in England or Wales, or to a UK national or person habitually resident in England or Wales, will be an offence under domestic law and triable in the courts of England and Wales. The effect of *subsection (5)(b)* is that it will also be an offence under domestic law if the prohibited acts in subsection (1) or (2) are conducted by or against a person habitually resident in England and Wales, but take place in Scotland or Northern Ireland.
328. *Subsections (9)* and *(10)* set out that the maximum penalties for the new offences in subsections (1) and (2). On summary conviction the maximum penalty is a fine or six

These notes refer to the Anti-Social Behaviour, Crime and Policing Act 2014 (c.12) which received Royal Assent on 13 March 2014

months' imprisonment (rising to 12 months once the increase in magistrates' courts sentencing powers in section 154(1) of the Criminal Justice Act 2003 is commenced), or both, and on conviction on indictment the maximum penalty is seven years' imprisonment.