



Sentencing Act 2020

2020 CHAPTER 17

FOURTH GROUP OF PARTS Further powers relating to sentencing

PART 11

BEHAVIOUR ORDERS

CHAPTER 3

PROTECTION FROM HARASSMENT

Modifications etc. (not altering text)

- C1** Pt. 11 Ch. 3 modified by S.I. 2014/3300, reg.13(2) (as substituted (1.12.2020) by [Sentencing Act 2020](#) (c. 17), s. 416(1), [Sch. 24 para. 425](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2)

359 Restraining order

- (1) In this Code “restraining order” means an order made under section 360 against a person which prohibits the person from doing anything described in the order.
- (2) A restraining order may have effect—
 - (a) for a period specified in the order, or
 - (b) until further order.

Commencement Information

- II** S. 359 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

360 Restraining order: availability

- (1) This section applies where a court is dealing with an offender for an offence.

Changes to legislation: Sentencing Act 2020, CHAPTER 3 is up to date with all changes known to be in force on or before 09 May 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

- (2) The court may make a restraining order under this section against the offender for the purpose of protecting the victim or victims of the offence, or any other person mentioned in the order, from conduct which—
- (a) amounts to harassment, or
 - (b) will cause a fear of violence.
- (3) But the court may make a restraining order under this section only if it does so in addition to dealing with the offender for the offence.

Commencement Information

I2 S. 360 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

361 Procedure for varying or discharging restraining order

- (1) Where a person is subject to a restraining order—
- (a) that person,
 - (b) the prosecution, or
 - (c) any other person mentioned in the order,
- may apply to the court which made the order for it to be varied or discharged by a further order.
- (2) Any person mentioned in the order is entitled to be heard on the hearing of an application under subsection (1).

Commencement Information

I3 S. 361 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

362 Evidence in proceedings relating to restraining orders

- (1) This section applies to—
- (a) proceedings under section 360 for the making of a restraining order;
 - (b) proceedings under section 361 or 363(6) for the variation or discharge of a restraining order.
- (2) In any such proceedings, both the prosecution and the defence may lead, as further evidence, any evidence that would be admissible in proceedings for an injunction under section 3 of the Protection from Harassment Act 1997 (civil remedy).

Commencement Information

I4 S. 362 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

363 Offence of breaching restraining order

- (1) It is an offence for a person who is subject to a restraining order without reasonable excuse to do anything prohibited by the restraining order.

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- (2) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months, or a fine, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or a fine, or both.
- (3) Subsection (1) does not apply to conduct of a person on a particular occasion if the Secretary of State certifies that, in the opinion of the Secretary of State, anything done by that person on that occasion related to—
- (a) national security,
 - (b) the economic well-being of the United Kingdom, or
 - (c) the prevention or detection of serious crime,
- and was done on behalf of the Crown.
- (4) A certificate under subsection (3) is conclusive evidence that subsection (1) does not apply to conduct of that person on that occasion.
- (5) A document purporting to be a certificate under subsection (3) is to be received in evidence and, unless the contrary is proved, to be treated as being such a certificate.
- (6) A court dealing with a person for an offence under this section may vary or discharge the restraining order by a further order.

Commencement Information

I5 S. 363 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

364 Restraining orders: meaning of “conduct” and “harassment”

For the purposes of this Chapter—

“conduct” includes speech;

“harassment”, in relation to a person, includes—

- (a) alarming the person, or
- (b) causing the person distress.

Commencement Information

I6 S. 364 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Changes to legislation:

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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. 34A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 1](#)
- s. 80(3)(f) inserted by [2021 c. 17 s. 54\(2\)](#)
- s. 179(4A) inserted by [2020 c. 17 Sch. 22 para. 11\(1\)](#)
- s. 179A inserted by [2020 c. 17 Sch. 22 para. 12\(2\)](#)
- s. 179A(1)(b)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 16\(2\)](#)
- s. 180(5) inserted by [2020 c. 17 Sch. 22 para. 11\(2\)](#)
- s. 186(8A) inserted by [2020 c. 17 Sch. 22 para. 11\(3\)](#)
- s. 202(1A)(1B) inserted by [2020 c. 17 Sch. 22 para. 13\(b\)](#)
- s. 202(1A)(b)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 17\(2\)](#)
- s. 204A inserted by [2020 c. 17 Sch. 22 para. 14\(2\)](#)
- s. 204A(3)(c)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 18\(2\)](#)
- s. 215(1A)(1B) inserted by [2022 c. 32 s. 149\(2\)\(a\)](#)
- s. 215(2A) inserted by [2022 c. 32 s. 149\(2\)\(c\)](#)
- s. 226(2)(ba) and word substituted for s. 226(2)(c)(d) by [2020 c. 17 Sch. 22 para. 43](#)
- s. 230(3A) and words inserted by [2020 c. 17 Sch. 22 para. 2](#)
- s. 234(1)(aa) inserted by [2020 c. 17 Sch. 22 para. 27\(1\)\(b\)](#)
- s. 234(1)(aa) omitted by [2020 c. 17 Sch. 22 para. 28\(1\)](#)
- s. 235(3A) inserted by [2020 c. 17 Sch. 22 para. 27\(2\)](#)
- s. 236(2A) inserted by [2020 c. 17 Sch. 22 para. 29\(3\)](#)
- s. 236(2A)(b) word substituted by [2020 c. 17 Sch. 22 para. 47\(b\)](#)
- s. 301(1A)(1B) inserted by [2022 c. 32 s. 149\(3\)\(a\)](#)
- s. 301(2A) inserted by [2022 c. 32 s. 149\(3\)\(c\)](#)
- s. 323(2A)-(2C) inserted by [2020 c. 17 Sch. 22 para. 85\(3\)](#)
- s. 343(4) inserted by [2022 c. 32 s. 178\(2\)](#)
- s. 348A348B inserted by [2022 c. 32 s. 178\(4\)](#)
- s. 350(6C)(6D) inserted by [2022 c. 32 s. 178\(5\)](#)
- s. 387A inserted by [2021 c. 17 s. 54\(3\)](#)
- s. 397A inserted by [2020 c. 17 Sch. 22 para. 15](#)
- s. 397A(4)(a)(ia) inserted by [2020 c. 17 Sch. 22 para. 19\(2\)\(b\)](#)
- s. 397A(4)(a)(i) words omitted by [2020 c. 17 Sch. 22 para. 19\(2\)\(a\)](#)
- s. 397A(5) words inserted by [2020 c. 17 Sch. 22 para. 19\(3\)](#)
- s. 397A(6)(7) inserted by [2020 c. 17 Sch. 22 para. 19\(4\)](#)
- s. 418(2A) inserted by [2021 c. 11 Sch. 13 para. 43\(5\)](#)
- Sch. 1 para. 13A inserted by [2020 c. 17 Sch. 22 para. 4\(a\)](#)
- Sch. 10 para. 10(5)(d) inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(a\)](#)
- Sch. 10 para. 10(9A) inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(c\)](#)
- Sch. 10 para. 11(2)(d) inserted by [2020 c. 17 Sch. 22 para. 21\(3\)\(a\)](#)
- Sch. 10 para. 11(6A) inserted by [2020 c. 17 Sch. 22 para. 21\(3\)\(c\)](#)
- Sch. 10 para. 10(9A) omitted by [2020 c. 17 Sch. 22 para. 74\(1\)\(b\)](#)
- Sch. 10 para. 11(6A) omitted by [2020 c. 17 Sch. 22 para. 75\(1\)\(b\)](#)
- Sch. 10 para. 10(5)(d) words substituted by [2020 c. 17 Sch. 22 para. 25\(a\)](#)
- Sch. 10 para. 10(5)(d) words substituted by [2020 c. 17 Sch. 22 para. 74\(1\)\(a\)](#)
- Sch. 10 para. 11(2)(d) words substituted by [2020 c. 17 Sch. 22 para. 26\(a\)](#)
- Sch. 10 para. 11(2)(d) words substituted by [2020 c. 17 Sch. 22 para. 75\(1\)\(a\)](#)
- Sch. 17A para. 24A inserted by [2020 c. 17, Sch. 22 para. 79A \(as inserted\) by 2021 c. 11 Sch. 13 para. 11\(20\)\(m\)](#)
- Sch. 18 para. 26A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 80](#)
- Sch. 19 para. 22A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 84](#)

- Sch. 26 para. 13A inserted by 2021 c. 11 Sch. 13 para. 43(7)(a)
- Sch. 26 para. 15(a)(iii) inserted by 2021 c. 11 Sch. 13 para. 43(7)(c)
- Sch. 26 para. 19(a)(ia) inserted by 2021 c. 11 Sch. 13 para. 43(7)(e)(i)
- Sch. 26 para. 20(c) inserted by 2021 c. 11 Sch. 13 para. 43(7)(f)
- Sch. 26 para. 20A inserted by 2021 c. 11 Sch. 13 para. 43(7)(g)
- Sch. 26 para. 24A inserted by 2021 c. 11 Sch. 13 para. 43(7)(i)
- Sch. 26 para. 20A(za) inserted by 2022 c. 32 s. 129(3)(d)
- Sch. 27 para. 16(2)(a)(b) substituted for words by 2021 c. 11 Sch. 13 para. 43(8)