

Crimes Legislation (Stalking and Harassment) Amendment Bill

Government Bill

As reported from the Justice Committee

Commentary

Recommendation

The Justice Committee has examined the Crimes Legislation (Stalking and Harassment) Amendment Bill and recommends that it be passed. We recommend all amendments unanimously.

About the bill as introduced

Stalking behaviour can be hard to recognise, can escalate quickly, and can pose a threat of serious harm to victims. At present, stalking and harassing behaviours are addressed by legislation across the civil and criminal jurisdictions. They include the Harassment Act 1997, Family Violence Act 2018, Crimes Act 1961, Harmful Digital Communications Act 2015, and the Summary Offences Act 1981. None of these Acts explicitly refer to stalking, which the law has largely considered to be the same as, or a form of, harassment. The most comparable offence, criminal harassment (section 8 of the Harassment Act) is therefore used for criminal responses to stalking.

The purpose of the bill is to address stalking to ensure that the harm experienced by victims is recognised and that offenders are prosecuted effectively. It would do so by amending several Acts to introduce a new stalking and harassment offence and make other supporting amendments. The amendments aim to enable more effective criminal justice responses to stalking and harassment.

The proposed amendments include:

- creating a stalking and harassment offence in the Crimes Act
- removing references to the existing criminal harassment offence in the Harassment Act

- under the Arms Act 1983, disqualifying a person convicted of stalking in the previous 10 years from holding a firearms licence
- introducing new aggravating factors under the Sentencing Act 2002 related to stalking and breaching a restraining order
- allowing restraining orders under the Harassment Act and orders under the Harmful Digital Communications Act to be made when a person is convicted of the new offence
- expanding the definition of psychological abuse in the Family Violence Act to include stalking
- preventing self-represented defendants charged with the new offence of stalking and harassment from being able to personally cross-examine alleged victims under the Evidence Act 2006.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Definition of stalking

Clause 4 would insert new sections 216O to 216Q into Part 9A of the Crimes Act, which deals with crimes against personal privacy. Proposed new section 216O of the bill as introduced defines the new stalking and harassment offence. A person (person A) would stalk and harass another person (person B) if person A engaged in a pattern of behaviour directed at person B that included doing at least three "specified acts" to person B in a 12-month period. Person A would need to know that their behaviour was likely to cause fear or distress to person B. Proposed new section 216P lists the behaviours that may constitute a "specified act".

We note that some of the specified acts may not ordinarily be illegal—for example, contacting or communicating with person B. We therefore considered whether the pattern of behaviour should explicitly involve conduct that could be charged as an offence. However, we agreed that specified acts (which may or may not be offences themselves) would be most appropriate given the nature of stalking.

We also discussed whether the definition in the bill as introduced of three specified acts in 12 months was an appropriate threshold. We note that stalking is often pre-meditated and could involve perpetrators tailoring their behaviour so that it falls outside specified time periods. We also recognise that the behaviour may occur around anniversaries, which could cause anxiety and stress over a prolonged period. We explored several options for the required number of specified acts and time frames.

We consider that two specified acts in 24 months would be appropriate. We recommend amending section 216O to this effect.

We suggest one addition to the list of specified acts. Collating and publishing private and identifying information about an individual, including posting information on their behalf, is known as “doxing”. We recognise that this behaviour invades a victim’s privacy and can cause significant harm. We consider that doxing is not clearly captured in the list of specified acts in the bill as introduced. We therefore recommend inserting into the list of specified acts in section 216P(1)(a) “publishing any statement or other material relating or purporting to relate to a person, or purporting to originate from a person”.

We note that the offence requires person A to know that their behaviour was likely to cause fear or distress to person B. We were concerned that perpetrators may not be behaving rationally or may refuse to acknowledge that their behaviour could cause fear or distress. We discussed whether it would be clearer to apply a “rational person” test or to use similar wording as in overseas jurisdictions like “ought to have known”.

We were advised that the drafting of the bill as introduced does not require proof that person A intended to cause fear or distress or know it will definitely occur as a result of their behaviour. Instead, they would need to know it was a likely result of their behaviour. We were also advised that, like the range of stalking offences overseas, the offence has different elements that affect its scope and proportionality. For example, the bill introduces a Police notice system that creates a presumption of knowledge. The presumption means that, if a notice has been given and the behaviour continues, it can be used as evidence that the person meets the knowledge element of the offence. We were advised that evidence that person A meets the knowledge element of the offence may also be met through other means. One example would be the victim or their family or friends telling the person they are causing them fear or distress. Another example is that the behaviour is so obviously likely to cause fear or distress that any person would know that their behaviour was likely to have that outcome.

Firearms prohibition orders

Part 7A of the Arms Act sets out the firearms prohibition orders (FPO) regime. FPOs aim to reduce the risk of harm to the public by keeping firearms from high-risk people. A court may issue an FPO when sentencing an offender convicted of a specified serious offence. An FPO prohibits an offender from accessing, possessing, or using any firearm or related item, and from associating with people who have firearms.

We note that evidence highlights serious risks to victim safety where a perpetrator of family violence has access to firearms. We consider that adding the stalking and harassment offence to the FPO regime could better protect victims and enable effective prosecution when offenders access firearms. We recommend inserting clause 6A to amend section 39A of the Arms Act accordingly.

Aggravating factors under the Sentencing Act

Clause 24 would amend section 9 of the Sentencing Act, which relates to aggravating and mitigating factors. The bill would add two new aggravating factors to sentencing. Proposed new section 9(1)(ga) would require “that the offender’s behaviour towards the victim, other than the offender’s behaviour resulting in the offence, involved persistent or repetitive behaviour over a prolonged duration that caused, or was likely to cause, fear and distress to the victim”.

We were puzzled by the clause “other than the offender’s behaviour resulting in the offence”, as we consider it unusual that the behaviour that led to the offence would be disregarded in sentencing. We explored the justification for this wording. We received advice that the intention is to ensure that behaviour is not counted twice—as an aggravating factor in both the offence and sentencing. However, we were told that the courts are adept at avoiding such double-counting, so specifically including this requirement is unnecessary. Consequently, we recommend deleting the phrase “other than the offender’s behaviour resulting in the offence” in clause 24.

We understand that this provision is intended to recognise cases where stalking and harassment-type behaviours are associated with offending and the offender has not been convicted of the new offence. Examples of the types of offences they might have been convicted of include assault, trespass, or wilful damage. The aggravating factor is intended to recognise the cumulative harm the victim may have experienced from the stalking and harassment leading up to the offending. We think that the offence should be more clearly linked to the associated stalking and harassment-type behaviours. We recommend inserting section 9(1)(cc) to require that the offence be connected to or following persistent or repetitive behaviour by the offender.

Orders when a defendant is discharged without conviction

Clause 25 would insert new sections 123I and 123J into the Sentencing Act. Proposed new section 123I deals with restraining orders under the Harassment Act, while proposed new section 123J relates to orders under the Harmful Digital Communications Act. The bill provides that the court may make an order under the applicable Act to protect the victim if the offender has been convicted of the new stalking and harassment offence. The court would need to be satisfied that the grounds were met in section 16(1) of the Harassment Act or section 19(5) of the Harmful Digital Communications Act to make the relevant order. For both provisions, the court could make an order in addition to imposing a sentence or making any other order.

We note that the bill’s current drafting would mean a court would be unable to make either type of order if the defendant were discharged without conviction. In this situation, the person would have been found to have committed the crime. However, their personal circumstances and the sentencing principles would result in the consequences of the conviction being deemed too severe for the crime. We recognise that the person might still pose an ongoing risk to their victim. Consequently, we consider that these victims should be able to access civil protections without needing to start separate civil proceedings. We recommend inserting clause 24A, which would amend sec-

tion 106 of the Sentencing Act, and amending clause 25 to enable a court to make a restraining order under the Harassment Act or orders under the Harmful Digital Communications Act when a person is discharged without conviction.

Destruction or forfeiture of intimate visual recordings

We understand that collecting intimate visual recordings may be a part of a pattern of behaviour committed by perpetrators. Sections 216L and 216M of the Crimes Act provide that a court may order the disposal or forfeiture of intimate visual recordings or things used to commit the offence under sections 216H to 216J.¹ We agree that it would be beneficial for the bill to contain a similar provision regarding intimate visual recordings obtained by an offender convicted of the new stalking and harassment offence. This would support the intent of the bill to provide more effective criminal responses to stalking and harassment. Further, without such an order, the perpetrator would have access to these recordings when their sentence was completed. We therefore recommend amending the bill to enable the court to order that these types of intimate visual recordings be destroyed.

Other matters considered

We note that the bill would capture any type of recording, such as photographs, video, or audio recordings, and that the use of tools like AI or “deepfakes” may be captured by the list of specified acts. For example, deepfakes could be captured by proposed new section 216P(1)(a)(v), relating to damaging or undermining person B’s reputation, opportunities, or relationships, or by our recommended new specified act of doxing in proposed section 216P(1)(a)(va).

While we have recommended enabling the disposal or forfeiture of intimate visual recordings, we note that the bill does not enable the disposal or forfeiture of other types of recordings or deepfakes. We were advised that creating new orders that apply more generally to recordings would require more detailed consideration. Accordingly, we note that the disposal or forfeiture of other types of recordings, including deepfakes, appears to be an outstanding issue that should be considered outside this bill.

We consider that it is important that aspects of this legislation be formally reviewed within three years. We strongly recommend that the Ministry of Justice reports to the Justice Committee on the results of that review and any recommendations.

New Zealand Labour Party, Green Party of Aotearoa New Zealand, and Te Pāti Māori differing view

The Labour Party, the Green Party, and Te Pāti Māori welcome the Government’s commitment to addressing stalking and harassment and strengthening legal protections for survivors. We especially acknowledge the contributions of submitters, most

¹ Those offences relate to making, possessing, publishing, importing, exporting, or selling intimate visual recordings.

with lived experience, whose voices were important in shaping the understanding of the real and lasting harm caused by stalking behaviours. We recognise the select committee's efforts to strengthen this bill and for engaging with views shared in public submissions. This legislation is an important step toward preventing the serious and cumulative harm caused by stalking behaviour.

However, while we support the overall direction of the proposed changes, further amendments are required to achieve the bill's original intent and ensure that it is fit for purpose. Labour, the Green Party, and Te Pāti Māori are concerned with the current definition of stalking; specifically, within Part 1, clause 4, section 216O(1)(a) and (1)(b). We also remain concerned that the bill does not go far enough to prevent access to firearms in the window between a stalking charge and the court proceedings.

Definition of stalking

Threshold for offending—Reduced from three to two occasions (Part 1, 4 re 216O(1)(a))

The current bill has been strengthened by changing the offence from three acts in one year to two acts in two years. We thank the committee for listening to us and our concerns and this has been reflected in the final bill. This amendment is consistent with comparable international legislation in Australia, the United Kingdom, and the United States. These jurisdictions recognise that stalking does not require a pattern of three separate incidents to constitute serious harm. Requiring three acts to be present would fail to reflect the lived reality of many survivors the committee heard submissions from, whose safety can be seriously impacted after just one or two acts. Further, this higher threshold would have been a step backward from the existing offence of criminal harassment, which requires only two acts.

Lowering the threshold of perpetrator knowledge (Part 1, 4, re 216O(1)(b))

Labour, the Green Party, and Te Pāti Māori remain concerned about the current wording of section 216O(1)(b): “engages in that pattern of behaviour knowing that it is likely to cause fear or distress to person B”. As currently drafted, a stalking offence can only be established if Person A has received a police notification or has admitted to knowing their conduct would likely cause fear or distress to person B. As the committee heard in multiple submissions, the current wording would exclude other forms of communication, such as Person B directly stating that they found the interaction distressing and asking for it to stop, from being used as evidence to establish “knowledge”. This would allow Person A to deny awareness even where survivors have made their distress explicit, which would limit the bill's effectiveness. As such we recommend that the provision be reviewed within one to two years of enactment to evaluate how it is functioning in practice and whether any gaps or loopholes are being used.

Comparable jurisdictions such as Australia and England address this issue through the inclusion of an “ought to know” threshold. Meaning an individual may be held liable

if they knew, or ought to have known, that their conduct was likely to cause harm. We recommend that the committee adopt a similar standard in section 216O(1)(b), specifying that “a person may be liable if they knew, or ought to have known, that their conduct was likely to cause fear or distress to Person B, or any reasonable person”. This would create a broader and more survivor-centred threshold, consistent with international best practice and the lived realities of survivors.

Firearms licence suspension at point of charge

We support the select committee’s recommendation to insert clause 6A to amend section 39A of the Arms Act, to prohibit anyone convicted of the stalking offence from ever owning a firearm via a Firearms Prohibition Order.

However, we remain concerned about a lack of safeguards during the pre-trial phase. With the current wording of clause 6 section 22H, the bill does not provide adequate protection in cases where an alleged perpetrator has access to firearms. Currently, the bill provides for the revocation of a firearms licence upon conviction and subjection to a Firearms Prohibition Order, which prohibits the individual from buying or accessing firearms indefinitely. However, as we heard from a number of submitters this does not address the risk posed in the period between charge and trial, which is often when survivors are most vulnerable.

We strongly recommend that clause 6 section 22H be amended to include an automatic suspension of firearms licences when a person is charged with stalking, and that all firearms in their possession be removed during this period. This would respond to the serious concern raised by survivors about the risk of violence during the pre-trial stage. The committee heard that in several occasions, the perpetrator retained their firearms after having their licence revoked, which highlights the gap in relying on conviction-based restrictions alone. Survivors consistently report feeling unsafe knowing that an alleged perpetrator may still legally possess firearms.

Rehabilitation and support

We wish to note that rehabilitation must be a core component of the response to stalking. The punitive measures introduced in this bill alone are not sufficient to reduce reoffending or ensure long-term survivor safety. As many submitters highlighted, effective early intervention and access to specialist support, including psychological, mental health, and drug and alcohol services, are essential to address the underlying drivers of stalking behaviour. Further, several organisations raised that these supports must be tailored to stalking, rather than relying on generic family violence services that may not address the specific dynamics of stalking. We agree with many submitters who stated the courts hold a critical role in determining referrals to rehabilitation services at sentencing.

It is important that people charged to terms of imprisonment under this Act continue rehabilitation when they are no longer in custody. Rehabilitation in prison is not as effective as rehabilitation delivered in the community and could be required over a long term to undo ingrained beliefs, attitudes and patterns of behaviour. There is an opportunity to embed stalking-specific education within existing community-based

rehabilitation programmes, including those delivered by specialist providers of prevention focused sexual violence (PFSV) services.

Police notification

Further, we remain concerned that police are not required to notify the victim before issuing a warning to alleged perpetrators. The risk of not informing the victim prior to the alleged perpetrator raises the level of risk and compromises their safety. We have heard from a range of submitters that police involvement can trigger retaliation. Specifically, we note that in one of the submitters' written submissions, a 2022 New Zealand survey found that one-third of victims experienced revenge for contacting the police. We recommend to the committee that changes are made around police reporting requirements and that police are required to consult victims before issuing a warning, take their views into account, ensure a safety plan is in place, and inform them both before and after the notification.

Conclusion

Labour, the Green Party, and Te Pāti Māori support the overall intent of the Crimes Legislation (Stalking and Harassment) Amendment Bill and acknowledge the improvements made through the select committee process. However, we believe further amendments are required to achieve the bill's original intent and ensure that it is fit for purpose. This includes changes to the definition of stalking and changes to firearms licence suspension.

ACT New Zealand differing view

ACT considers this bill is an important piece of legislation to address the harm caused by stalking and harassment. It is critical that the Police and courts have a statutory framework to protect the victims of these acts who are predominantly women.

As has already been noted in at the commentary, the select committee discussed at length both the number of specified acts required, and what would be an appropriate timeframe, if any, in which the acts must occur.

In the end the position of 2 specified acts in a 24-month period was arrived at. This position helps address the concerns raised by submitters and more closely aligns with the current existing criminal harassment offence.

ACT does note we do need to strike a balance between ensuring a sufficient pattern of behaviour is established to protect victims while not unintentionally creating offenders and burdening the courts. We would encourage the Police to use the written notice provision in section 216O(3) to the fullest extent possible so that potential offenders are made aware of the specified acts which may trigger an offence. ACT also thinks that it is appropriate that the list of potential defences in section 216Q(2) is maintained in the interests of justice.

We look forward to getting this new stalking and harassment regime in place to advance legal protections in New Zealand.

Appendix

Committee process

The Crimes Legislation (Stalking and Harassment) Amendment Bill was referred to the committee on 10 December 2024. We called for submissions on the bill with a closing date of 13 February 2025. We received and considered 608 submissions from interested groups and individuals. We heard oral evidence from 62 submitters at hearings in Wellington and by videoconference.

Advice on the bill was provided by the Ministry of Justice and the New Zealand Police. The Office of the Clerk provided advice on the bill's legislative quality and developed an alternative engagement campaign that included social media activity and an online survey. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Hon Andrew Bayly (member from 9 April and Chairperson from 10 April 2025)

Hon James Meager (member and Chairperson until 9 April 2025)

Hon Ginny Andersen

Jamie Arbuckle

Carl Bates (from 29 January 2025)

Cameron Brewer (until 29 January 2025)

Tākuta Ferris

Paulo Garcia (until 29 January 2025)

Dr Tracey McLellan (until 14 May 2025)

Rima Nakhle

Tamatha Paul (until 29 January 2025)

Tom Rutherford (from 29 January 2025)

Todd Stephenson

Vanushi Walters (from 14 May 2025)

Hon Dr Duncan Webb

Dr Lawrence Xu-Nan (from 29 January 2025)

Related resources

The documents we received as advice and evidence are available on the Parliament website.

**Crimes Legislation (Stalking and Harassment)
Amendment Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Paul Goldsmith

Crimes Legislation (Stalking and Harassment) Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Crimes Legislation (Stalking and Harassment) Amendment Act **2024**.

2 Commencement

This Act comes into force 6 months after Royal assent.

Part 1
Amendments to Crimes Act 1961

3 Principal Act

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This Part amends the Crimes Act 1961.

4 New sections 216O to ~~216Q~~ 216S and cross-heading inserted

After section 216N, insert:

Stalking and harassment

216O Stalking and harassment defined

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(1) For the purposes of **section 216Q**, a person (**person A**) **stalks and harasses** another person (**person B**) if person A—

(a) engages in a pattern of behaviour that is directed at person B by doing any specified act to person B on at least ~~3~~ 2 separate occasions within a period of ~~12 months~~ 2 years; and

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(b) engages in that pattern of behaviour knowing that it is likely to cause fear or distress to person B.

(2) To avoid doubt, the specified acts may be the same type of specified act on each separate occasion, or different types of specified acts.

(3) A constable may, if they believe on reasonable grounds that person A has engaged in 1 or more specified acts towards person B and that those acts have caused, or are likely to cause, fear or distress to person B, notify person A in writing that—

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(a) the specified act or specified acts done to person B are causing, or are likely to cause, fear or distress to person B; and

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(b) engaging in any other specified act towards person B may amount to an offence under **section 216Q** of this Act.

(4) For the purposes of **subsection (1)(b)**, if person A has received a notice in writing under **subsection (3)**, person A is presumed to know that—

(a) any specified acts they do to person B after receiving the notice may amount to a pattern of behaviour directed at person B; and

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(b) that pattern of behaviour is likely to cause fear or distress to person B.

216P Meaning of specified act

(1) For the purposes of **sections 216O**, **specified act** by a person (**person A**), in relation to another person (**person B**),—

35

**Crimes Legislation (Stalking and Harassment)
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Part 1 cl 4

(a)	means any of the following acts:	
(i)	watching, following, loitering near, or obstructing person B:	
(ii)	recording or tracking person B:	
(iii)	contacting or communicating with person B:	
(iv)	damaging, devaluing, moving, entering, or interfering with taonga or property (including pets) that person B has an interest in, whether or not person A has an interest in the taonga or property:	5
(v)	damaging or undermining person B's reputation, opportunities, or relationships:	
(va)	<u>publishing any statement or other material relating to or purporting to relate to person B, or purporting to originate from person B:</u>	10
(vi)	acting in any way that would cause fear or distress to a reasonable person; <u>and</u>	
(b)	includes an act of the kind listed in paragraph (a) done directly or indirectly to—	15
(i)	any third-party individual who is in a family relationship with person B (within the meaning of section 12 of the Family Violence Act 2018), if the act is done wholly or partly because of person B's family relationship with the third party; or	
(ii)	person B through any third-party individual, institution, or organisation, with or without the knowledge of the third party.	20
(2)	A specified act may be done by or through any means whatsoever (for example, tracking devices, digital applications, spyware, drones, or the use of artificial intelligence).	
216Q	Stalking and harassment	25
(1)	A person (person A) who stalks and harasses another person (person B) commits an offence and is liable to imprisonment for a term not exceeding 5 years.	
(2)	It is a defence to a charge under subsection (1) if person A proves that they engaged in their behaviour—	
(a)	for a lawful purpose; or	30
(b)	with a reasonable excuse; or	
(c)	in the public interest.	
216R	<u>Disposal and forfeiture of any intimate visual recordings</u>	
(1)	<u>This section applies if—</u>	
(a)	<u>a person (person A) has been convicted of an offence against section 216Q; and</u>	35
(b)	<u>person A possesses an intimate visual recording (within the meaning of section 216G) of the person who person A stalked and harassed.</u>	

(2) The court may, in addition to passing any other sentence or making any other order, order that the intimate visual recording be destroyed within 10 working days from the making of the order, and that the recording in the meantime be impounded.

(3) Before making an order under **subsection (2)**, the court must give the following persons an opportunity to be heard:

(a) person A; and

(b) any person who, in the opinion of the court, would be directly affected by the making of the order.

216S Effect of appeal on order made under section 216R

(1) If a person is convicted of an offence against **section 216Q**, and any order is made under **section 216R**, the operation of the order is suspended,—

(a) in any case, until the expiration of the time prescribed in the Criminal Procedure Act 2011 or this Act for the filing of a notice of appeal or an application for leave to appeal; and

(b) if a notice of appeal is filed within the prescribed time, until the determination of the appeal; and

(c) if the application for leave to appeal is filed within the prescribed time, until the application is determined, and, if leave to appeal is granted, until the determination of the appeal.

(2) If the operation of any order is suspended until the determination of the appeal, the court determining the appeal may, by order, cancel or vary the order.

Part 2

Amendments to other enactments

Subpart 1—Amendment to Arms Act 1983

5 Principal Act

This subpart amends the Arms Act 1983.

6 Section 22H amended (Persons disqualified from holding firearms licence)

In section 22H(a)(iii), after “202C,”, insert “**216Q**,”.

6A Section 39A amended (When FPO may be made)

In section 39A(1)(a)(iii), after “189A,”, insert “**216Q**,”.

Subpart 2—Amendments to Evidence Act 2006

7 Principal Act

This subpart amends the Evidence Act 2006.

Crimes Legislation (Stalking and Harassment)		
Amendment Bill		
Part 2 cl 8		
8	Section 4 amended (Interpretation)	
	In section 4(1), insert in its appropriate alphabetical order:	
	stalking and harassment means an offence against section 216Q of the Crimes Act 1961 has the same meaning as in section 216O of the Crimes Act 1961	5
9	Section 95 amended (Restrictions on cross-examination by parties in person)	
(1)	In section 95(1), replace “or harassment” with “, stalking and harassment, or harassment”.	
(2)	In section 95(1)(b)(i), replace “or harassment” with “, or of an offence of stalking and harassment”.	10
Subpart 3—Amendments to Family Violence Act 2018		
10	Principal Act	
	This subpart amends the Family Violence Act 2018.	
11	Section 11 amended (Meaning of psychological abuse)	15
(1)	In section 11(1)(b), replace “intimidation or harassment” with “intimidation, harassment, or stalking” in each place.	
(2)	After section 11(1)(b)(i), insert:	
	(ia) doing, in relation to another person, any of the specified acts listed described in section 216P of the Crimes Act 1961:	20
Subpart 4—Amendments to Harassment Act 1997		
12	Principal Act	
	This subpart amends the Harassment Act 1997.	
13	Long Title amended	
	In the Long Title, delete “ criminal and ”.	25
14	Section 6 amended (Object)	
(1)	Repeal section 6(2)(a).	
(2)	In section 6(2)(c), delete “criminal and”.	
15	Part 2 repealed	
	Repeal Part 2.	30
16	Section 26 amended (Power to require person to supply name and address)	
	Repeal section 26(2).	

- 17 Section 29 amended (Standard of proof)**
In section 29, delete “(other than criminal proceedings)”.
- 18 Section 30 amended (Admission of evidence)**
In section 30, delete “(other than criminal proceedings)”.
- 19 Section 32 amended (Vexatious proceedings)** 5
Repeal section 32(4).
- 20 Section 42 amended (Rules of court)**
In section 42(2)(g), delete “or between courts exercising civil jurisdiction and courts exercising criminal jurisdiction,”.
- Subpart 5—Amendments to Private Security Personnel and Private Investigators Act 2010 10
- 21 Principal Act**
This subpart amends the Private Security Personnel and Private Investigators Act 2010.
- 22 Section 62 amended (Grounds of disqualification for individual applicant)** 15
- (1) In section 62(f)(ii), after “216J”, insert “or **216Q**”.
- (2) In section 62(f)(iv), delete “8 or”.
- Subpart 6—Amendments to Sentencing Act 2002
- 23 Principal Act**
This ~~Part~~ subpart amends the Sentencing Act 2002. 20
- 24 Section 9 amended (Aggravating and mitigating factors)**
- (1) After section 9(1)(ca), insert:
- (cb) that the offence was committed while the offender was subject to a restraining order under the Harassment Act 1997 for the protection of the victim of the offence: 25
- (cc) that the offence was connected to, or followed, persistent or repetitive behaviour by the offender towards the victim over a prolonged duration that caused, or was likely to cause, fear or distress to the victim:
- (2) After section 9(1)(g), insert:
- (ga) ~~that the offender’s behaviour towards the victim, other than the offender’s behaviour resulting in the offence, involved persistent or repetitive behaviour over a prolonged duration that caused, or was likely to cause, fear or distress to the victim:~~ 30

24A Section 106 amended (Discharge without conviction)

After section 106(2A), insert:

(2B) A court discharging an offender under this section may make a restraining order under Part 3 of the Harassment Act 1997 in accordance with **section 123I.**

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(2C) A court discharging an offender under this section may make 1 or more orders under section 19(1) of the Harmful Digital Communications Act 2015 in accordance with **section 123J.**

25 New sections 123I and 123J and cross-headings inserted

After section 123H, insert:

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Restraining orders under Harassment Act 1997

123I Restraining orders under Harassment Act 1997

(1) This section applies if—

(a) ~~an offender is convicted of an offence against **section 216Q** of the Crimes Act 1961; and~~

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(a) an offender is—

(i) convicted of an offence against **section 216Q** of the Crimes Act 1961; or

(ii) discharged without conviction under section 106 in respect of an offence against that section; and

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(b) there is not currently in force a restraining order against the offender made under Part 3 of the Harassment Act 1997 for the protection of the victim of the offence.

(2) The court may make a restraining order against the offender under the Harassment Act 1997 if satisfied that the grounds in section 16(1) of ~~the Harassment Act 1997~~ that Act have been met.

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(3) The court may make ~~a the~~ the restraining order ~~under this section~~ in addition to imposing a sentence or making any other order.

Orders under Harmful Digital Communications Act 2015

123J Orders under Harmful Digital Communications Act 2015

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(1) ~~This section applies if an offender is convicted of an offence against **section 216Q** of the Crimes Act 1961.~~

(1) This section applies if an offender is—

(a) convicted of an offence against **section 216Q** of the Crimes Act 1961; or

35

- (b) discharged without conviction under section 106 in respect of an offence against that section.
- (2) If the offence involves digital communication (within the meaning of section 4 of the Harmful Digital Communications Act 2015), the court may make 1 or more orders under section 19(1) of the Harmful Digital Communications Act 2015 against the offender for the protection of the victim of the offence after taking into account the matters listed in section 19(5) of that Act. 5
- (3) The court may make ~~an the~~ order ~~made under this section~~ in addition to imposing a sentence or making any other order.

Subpart 7—Amendment to Criminal Procedure (Transfer of Information) Regulations 2013 10

26 Principal regulations

This subpart amends the Criminal Procedure (Transfer of Information) Regulations 2013.

27 Regulation 3 amended (Interpretation) 15

In regulation 3(1), definition of **harassment offence**, replace paragraph (a) with:

- (a) **section 216Q** of the Crimes Act 1961; or

Legislative history

9 December 2024
10 December 2024

Introduction (Bill 107–1)
First reading and referral to Justice Committee