

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4,027 of 26th September, 2013

B. 22/13

BILL

FOR

AN ACT to amend the Crimes Act 2011.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Crimes (Amendment) Act 2013 and comes into operation on the day of publication.

Amendment of the Crimes Act 2011.

2. The Crimes Act 2011 is amended by inserting the following section after section 94–

“Stalking involving fear of violence or serious alarm or distress.

94A.(1) A person (“A”) whose course of conduct–

- (a) amounts to stalking; and
- (b) either–
 - (i) causes another (“B”) to fear, on at least two occasions, that violence will be used against B, or
 - (ii) causes B serious alarm or distress which has a substantial adverse effect on B’s usual day-to-day activities,

is guilty of an offence if A knows or ought to know that A's course of conduct will cause B so to fear on each of those occasions or (as the case may be) will cause such alarm or distress.

- (2) For the purposes of this section A ought to know that A's course of conduct will cause B to fear that violence will be used against B on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause B so to fear on that occasion.
- (3) For the purposes of this section A ought to know that A's course of conduct will cause B serious alarm or distress which has a substantial adverse effect on B's usual day-to-day activities if a reasonable person in possession of the same information would think the course of conduct would cause B such alarm or distress.
- (4) It is a defence for A to show that—
 - (a) A's course of conduct was pursued for the purpose of preventing or detecting crime;
 - (b) A's course of conduct was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment; or
 - (c) the pursuit of A's course of conduct was reasonable for the protection of A or another or for the protection of A's or another's property.
- (5) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for 12 months, or the statutory maximum fine, or both; or
 - (b) on conviction on indictment, to imprisonment for 5 years, or a fine, or both.
- (6) If on the trial on indictment of a person charged with an offence under this section the jury find the person not guilty of

the offence charged, they may find the person guilty of an offence under section 92 or 92A.

- (7) The Supreme Court has the same powers and duties in relation to a person who is by virtue of subsection (6) convicted before it of an offence under section 92 or 92A as a Magistrates' Court would have on convicting the person of the offence.
- (8) This section is without prejudice to the generality of section 94.”.

EXPLANATORY MEMORANDUM

This Bill amends the Crimes Act 2011 by inserting the offence of stalking involving fear of violence or serious alarm or distress.

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