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Protection from Harassment Bill

Bill No. 12/2014.

Read the first time on 3rd March 2014.

PROTECTION FROM HARASSMENT ACT 2014

(No. of 2014)

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A BILL

intituled

An Act to protect persons against harassment and unlawful stalking and to create offences, and provide civil remedies related thereto or in relation to false statements of fact, and to make consequential amendments to other written laws.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

PART I
PRELIMINARY

Short title and commencement

5 1. This Act may be cited as the Protection from Harassment Act 2014 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpretation

2. In this Act, unless the context otherwise requires —

10 “communication” means any words, image, message, expression, symbol or other representation, that can be heard, seen or otherwise perceived by any person;

“offending communication”, in relation to any contravention of a provision under this Act, means any communication or statement made in contravention of that provision;

15 “publish”, in relation to a communication or statement, means to make the communication or statement available in any form such that the communication or statement is or can be heard, seen or otherwise perceived by the public in Singapore or any section of the public in Singapore, and includes cause to be published;

20 “respondent”, in relation to an action under section 11 or an application for an order under section 12 or 13, in respect of a contravention of a provision of this Act, means the person alleged to have contravened that provision for the purposes of that action or application.

PART II
OFFENCES

Intentionally causing harassment, alarm or distress

30 3.—(1) No person shall, with intent to cause harassment, alarm or distress to another person, by any means —

(a) use any threatening, abusive or insulting words or behaviour;
or

(b) make any threatening, abusive or insulting communication,
thereby causing that other person or any other person (each referred to
for the purposes of this section as the victim) harassment, alarm or
distress.

(2) Any person who contravenes subsection (1) shall be guilty of an
offence and, subject to section 8, shall be liable on conviction to a fine
not exceeding \$5,000 or to imprisonment for a term not exceeding
6 months or to both.

(3) In any proceedings for an offence under subsection (2), it is a
defence for the accused person to prove that his conduct was
reasonable.

Illustrations

(a) X and Y are co-workers. At the workplace, X loudly and graphically
describes to the other co-workers X's desire for a sexual relationship with Y in an
insulting manner. X knows that Y is within earshot and intends to cause Y distress.
Y is distressed. X is guilty of an offence under this section.

(b) X writes a letter containing threatening words towards Y intending to send
the letter to Y to cause him alarm. X decides not to send the letter and throws it
away. Y finds the letter and is alarmed. X is not guilty of an offence under this
section as he had no reason to believe that the letter would be seen by Y.

Harassment, alarm or distress

4.—(1) No person shall by any means —

(a) use any threatening, abusive or insulting words or behaviour;
or

(b) make any threatening, abusive or insulting communication,
which is heard, seen or otherwise perceived by any person (referred to
for the purposes of this section as the victim) likely to be caused
harassment, alarm or distress.

(2) Any person who contravenes subsection (1) shall be guilty of an
offence and, subject to section 8, shall be liable on conviction to a fine
not exceeding \$5,000.

(3) In any proceedings for an offence under subsection (2), it is a defence for the accused person to prove —

- (a) that he had no reason to believe that the words or behaviour used, or the communication made, by him would be heard, seen or otherwise perceived by the victim; or
- (b) that his conduct was reasonable.

Illustration

X and Y are classmates. X posts a vulgar tirade against Y on a website accessible to all of their classmates. One of Y's classmates shows the message on the website to Y, and Y is distressed. X is guilty of an offence under this section.

Fear or provocation of violence

5.—(1) No person shall by any means use towards another person (referred to for the purposes of this section as the victim) any threatening, abusive or insulting words or behaviour, or make any threatening, abusive or insulting communication to another person (referred to also for the purposes of this section as the victim), either —

(a) with the intent —

- (i) to cause the victim to believe that unlawful violence will be used by any person against the victim or any other person; or
- (ii) to provoke the use of unlawful violence by the victim or another person against any other person; or

(b) whereby —

- (i) the victim is likely to believe that such violence referred to in paragraph (a)(i) will be used; or
- (ii) it is likely that such violence referred to in paragraph (a)(ii) will be provoked.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and, subject to section 8, shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

(3) In any proceedings for an offence under subsection (2), it is a defence for the accused person to prove —

- (a) in respect of a contravention of subsection (1)(b), that he had no reason to believe that the words or behaviour used, or the communication made, by him would be heard, seen or otherwise perceived by the victim; or
- (b) that his conduct was reasonable.

Threatening, abusing or insulting public servant or public service worker

6.—(1) No person shall by any means —

- (a) use any indecent, threatening, abusive or insulting words or behaviour; or
- (b) make any indecent, threatening, abusive or insulting communication,

towards or to a public servant or public service worker (referred to for the purposes of this section as the victim) in relation to the execution of the victim's duty as such public servant or public service worker.

(2) No offence is committed under this section unless the person knows or ought reasonably to know that the victim was acting in his capacity as a public servant or public service worker, as the case may be.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and, subject to section 8, shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

(4) In any proceedings for an offence under subsection (3), it is a defence for the accused person to prove —

- (a) that he had no reason to believe that the words or behaviour used, or the communication made, by him would be heard, seen or otherwise perceived by the victim; or
- (b) that his conduct was reasonable.

(5) In this section —

“public servant” has the same meaning as in the Penal Code (Cap. 224), and includes any person who, by virtue of any other written law, is deemed to be a public servant for the purposes of the Penal Code;

“public service worker” means an individual who belongs to a prescribed class of employees or workers that provides any service which is essential to the well-being of the public or the proper functioning of Singapore, as prescribed under subsection (6).

(6) For the purposes of the definition of “public service worker” in subsection (5), the Minister may, by order published in the *Gazette*, prescribe the classes of employees or workers and the services provided by them.

(7) Every order made under subsection (6) shall be presented to Parliament as soon as possible after publication in the *Gazette*.

Unlawful stalking

7.—(1) No person shall unlawfully stalk another person.

(2) Subject to subsection (7), a person (referred to in this section as the accused person) unlawfully stalks another person (referred to for the purposes of this section as the victim) if the accused person engages in a course of conduct which —

(a) involves acts or omissions associated with stalking;

(b) causes harassment, alarm or distress to the victim; and

(c) the accused person —

(i) intends to cause harassment, alarm or distress to the victim; or

(ii) knows or ought reasonably to know is likely to cause harassment, alarm or distress to the victim.

(3) The following are examples of acts or omissions which, in particular circumstances, are ones associated with stalking:

(a) following the victim or a related person;

- (b) making any communication, or attempting to make any communication, by any means —
- (i) to the victim or a related person;
 - (ii) relating or purporting to relate to the victim or a related person; or 5
 - (iii) purporting to originate from the victim or a related person;
- (c) entering or loitering in any place (whether public or private) outside or near the victim's or a related person's place of residence or place of business or any other place frequented by the victim or the related person; 10
- (d) interfering with property in the possession of the victim or a related person (whether or not the accused person has an interest in the property);
- (e) giving or sending material to the victim or a related person, or leaving it where it will be found by, given to or brought to the attention of, the victim or a related person; 15
- (f) keeping the victim or a related person under surveillance.

Illustrations

These acts are acts associated with stalking of X by Y: 20

(a) Y repeatedly sends emails to Y's subordinate (X) with suggestive comments about X's body.

(b) Y sends flowers to X daily even though X has asked Y to stop doing so.

(c) Y repeatedly circulates revealing photographs of a classmate (X) to other classmates. 25

(4) For the purposes of subsection (2)(c), the accused person ought reasonably to know that his course of conduct is likely to cause harassment, alarm or distress to the victim if a reasonable person in possession of the same information would think that the course of conduct is likely to have that effect. 30

(5) In considering whether a course of conduct is likely to cause harassment, alarm or distress, the court may have regard to the following factors:

- (a) the number of occasions on which the acts or omissions associated with stalking were carried out;
- (b) the frequency and the duration of the acts or omissions associated with stalking that were carried out;
- 5 (c) the manner in which the acts or omissions associated with stalking were carried out;
- (d) the circumstances in which the acts or omissions associated with stalking were carried out;
- (e) the particular combination of acts or omissions associated with stalking comprised in the course of conduct;
- 10 (f) the likely effects of the course of conduct on the victim's safety, health, reputation, economic position, or his freedom to do any act which he is legally entitled to do or not to do any act which he is not legally bound to do; and
- 15 (g) the circumstances of the victim including his physical or mental health and personality.

(6) Any person who contravenes subsection (1) shall be guilty of an offence and, subject to section 8, shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding
20 12 months or to both.

(7) In any proceedings for an offence under subsection (6), it is a defence for the accused person to prove —

- (a) that the course of conduct was reasonable in all the circumstances;
- 25 (b) that the course of conduct was pursued under any written law or rule of law or to comply with any condition or requirement imposed by any person under any written law;
- (c) that the course of conduct was lawfully done under a duty or power under any written law for the purpose of preventing or
30 detecting crime; or
- (d) that the course of conduct was done on behalf of the Government and was necessary for the purposes of national

security, national defence or the conduct of international relations.

(8) If any dispute arises as to whether any act falls within paragraph (d) of subsection (7), a certificate issued under the hand of the Minister responsible for national security, or for national defence or for the conduct of international relations, as the case may be, stating that in his opinion any act done by a specified person on a specified occasion falls within that paragraph shall be conclusive evidence that the act falls within that paragraph.

(9) A document purporting to be a certificate issued pursuant to subsection (8) and to be issued under the hand of the Minister shall be received in evidence and, unless the contrary is proved, be treated as being such a certificate.

(10) In this section —

“course of conduct” means conduct —

(a) on one occasion, if —

(i) the conduct is protracted; or

(ii) the accused person has a previous conviction under this section in respect of the same victim;
or

(b) on 2 or more occasions in any other case;

“related person”, in relation to the victim, means a person about whose safety or well-being the victim would reasonably be expected to be seriously concerned.

Illustration

Y surreptitiously plants a camera in X’s apartment. Unknown to X, the camera continuously transmits live videos of X in X’s apartment and Y watches the videos continually over several days. Y’s conduct is protracted.

Enhanced penalty for subsequent offence

8. A person who is convicted (whether before, on or after the date of commencement of this Act) of any offence under section 13A, 13B, 13C or 13D of the Miscellaneous Offences (Public Order and Nuisance) Act (Cap. 184) in force before that date or who is convicted

of any offence under section 3, 4, 5, 6 or 7 shall, on a subsequent conviction —

- 5 (a) for an offence under section 3, be liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both;
- (b) for an offence under section 4, be liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both;
- 10 (c) for an offence under section 5, be liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both;
- (d) for an offence under section 6, be liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both; and
- 15 (e) for an offence under section 7, be liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

Community order

- 20 **9.** A court shall, upon the conviction of any person for any offence under section 3, 4, 5, 6 or 7, have the power to make a community order under Part XVII of the Criminal Procedure Code (Cap. 68) notwithstanding any provision to the contrary in section 337(1)(h) of that Code.

Contravention of certain orders

- 25 **10.—**(1) Any person who, without reasonable excuse, fails to comply with an order made under section 12 (except section 12(3)(c) and any direction under section 12(3)(d) made with respect to an order made under section 12(3)(c)) or section 13 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding
30 \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

(2) Subject to subsection (3), subsection (1) shall not affect the powers of the court in relation to the punishment for contempt of court.

(3) Where a person is convicted of an offence under subsection (1) in respect of any non-compliance with an order, that non-compliance is not punishable as a contempt of court. 5

(4) A person cannot be convicted of an offence under subsection (1) in respect of any non-compliance with an order which has been punished as a contempt of court.

PART III 10

REMEDIES

Action for statutory tort

11.—(1) The victim under section 3, 4, 5 or 7 may bring civil proceedings in a court against the respondent.

(2) In such proceedings, if the court is satisfied on the balance of probabilities that the respondent has contravened that section as alleged by the victim, the court may award such damages in respect of the contravention as the court may, having regard to all the circumstances of the case, think just and equitable. 15

Protection order 20

12.—(1) Subject to subsection (9), the victim under section 3, 4, 5, 6 or 7 may make an application to the District Court for a protection order.

(2) A District Court may make a protection order if it is satisfied on the balance of probabilities that — 25

(a) the respondent has contravened section 3, 4, 5, 6 or 7 in respect of the victim;

(b) the contravention referred to in paragraph (a) is likely to continue, or the respondent is likely to commit a contravention of section 3, 4, 5, 6 or 7 in respect of the victim; and 30

(c) it is just and equitable in all the circumstances.

(3) Subject to section 21(1), a protection order may be made under subsection (2) for all or any of the following purposes:

5 (a) in the case of a likely contravention or likely continuing contravention of section 3, 4, 5, 6 or 7, prohibiting the respondent from doing any thing in relation to the victim or (in the case of section 7) any related person, as may be specified in the order;

10 (b) in the case of a likely contravention or likely continuing contravention of section 3, 4, 5, 6 or 7 involving an offending communication, requiring that no person shall publish or continue to publish the offending communication;

15 (c) referring the respondent or the victim or both to attend counselling or mediation provided by such body as the District Court may direct;

(d) the giving of any direction as is necessary for and incidental to the proper carrying into effect of any order made under paragraph (a), (b) or (c).

20 (4) A protection order may be made subject to such exceptions or conditions as may be specified in the order.

(5) An order under subsection (3)(b) and any direction under subsection (3)(d) made with respect to that order shall take effect in respect of the person to whom such order or direction applies —

25 (a) from the date when such order or direction, as the case may be, is served on him in such manner as may be prescribed;

(b) where the District Court dispenses with the service of such order or direction, from the date when the service on him of such order or direction, as the case may be, is dispensed with by the District Court; or

30 (c) such later date as the District Court may specify.

(6) Subject to subsection (7), a protection order shall cease to have effect after such period as the District Court may specify in the order.

(7) The District Court may, on the application of the victim or any person to whom the protection order applies, vary, suspend or cancel the protection order or extend the duration of the protection order.

(8) Any person (except the respondent) to whom an order under subsection (3)(b) applies shall not be subject to any civil liability under any rule of law or contract for any act done for the purpose of complying with any order under subsection (3)(b).

(9) For the purposes of this section and section 13, the victim of any contravention of section 3 shall include only the person to whom the respondent intended to cause harassment, alarm or distress, and not any other person harassed, alarmed or distressed by that contravention.

Expedited protection order

13.—(1) Where, upon an application for a protection order under section 12, the District Court is satisfied that —

(a) there is prima facie evidence that —

- (i) the respondent has contravened section 3, 4, 5, 6 or 7 in respect of the victim;
- (ii) the contravention referred to in sub-paragraph (i) is likely to continue, or the respondent is likely to commit a contravention of section 3, 4, 5, 6 or 7 in respect of the victim imminently; and
- (iii) the contravention referred to in sub-paragraph (ii), if continued or committed, is likely to have a substantial adverse effect on the victim or the victim's day-to-day activities; and

(b) it is just and equitable in all the circumstances for the protection order to be made on an expedited basis,

the District Court may make an expedited protection order for all or any of the purposes of section 12(3) (subject to section 21(1)), notwithstanding that notice of the application has not been served on the respondent or has not been served on the respondent within a reasonable time before the hearing of the application.

(2) An expedited protection order shall take effect in respect of the person to whom such order applies —

(a) from the date when such order is served on him in such manner as may be prescribed;

5 (b) where the District Court dispenses with the service of such order, from the date when the service on him of such order is dispensed with by the District Court; or

(c) such later date as the District Court may specify.

10 (3) An expedited protection order shall cease to have effect on the earlier of the following dates:

(a) on the 28th day after the date of the making of the expedited protection order;

(b) on the first day of the hearing of the application for the protection order.

15 (4) Section 12(4), (7) and (8) shall, with the necessary modifications, apply to an expedited protection order.

(5) There shall be no appeal against a decision of the District Court made under this section.

No civil action for common law tort of harassment

20 **14.**—(1) The common law tort of harassment is, for the avoidance of doubt, hereby declared to be abolished and no civil proceedings shall be brought for the tort of harassment except under this Act.

(2) Nothing in subsection (1) shall prevent the commencement of proceedings for any act or conduct which occurred before the date of
25 commencement of this Act.

False statements of fact

30 **15.**—(1) Where any statement of fact about any person (referred to in this section as the subject) which is false in any particular about the subject has been published by any means, the subject may apply to the District Court for an order under subsection (2) in respect of the statement complained of.

(2) Subject to section 21(1), the District Court may, upon the application of the subject under subsection (1), order that no person shall publish or continue to publish the statement complained of unless that person publishes such notification as the District Court thinks necessary to bring attention to the falsehood and the true facts. 5

(3) The District Court shall not make an order under subsection (2) unless the District Court is satisfied on the balance of probabilities that —

(a) the statement of fact complained of is false in any particular about the subject; and 10

(b) it is just and equitable to do so.

(4) An order under subsection (2) may be made subject to such exceptions or conditions as may be specified in the order.

(5) An order under subsection (2) shall take effect in respect of the person to whom such order applies — 15

(a) from the date when such order is served on him in such manner as may be prescribed;

(b) where the District Court dispenses with the service of such order, from the date when the service on him of such order is dispensed with by the District Court; or 20

(c) such later date as the District Court may specify.

(6) The District Court may, on the application of the subject, the author, or any person to whom the order applies, vary, suspend or cancel the order.

(7) In this section, “author” means the originator of the statement complained of. 25

Knowledge of certain orders presumed

16. For the purposes of proceedings in relation to section 10 or 15, it shall be presumed, until the contrary is proved, that a person has knowledge of the terms of a protection order under section 12(2), an expedited protection order under section 13(1) or an order under section 15(2), as the case may be — 30

- (a) from the date when such order is served on him in such manner as may be prescribed;
- (b) where a court dispenses with the service of such order, from the date when the service on him of such order is dispensed with by the court; or
- (c) such later date as the court may specify.

PART IV

GENERAL

Application to person outside Singapore

17.—(1) Without prejudice to the jurisdiction and power conferred under this Act or any other written law, the court shall in the circumstances specified in subsections (2) to (6) —

(a) have jurisdiction to try any offence under section 3, 4, 5, 6 or 7 and impose the full punishment under this Act; and

(b) have jurisdiction to make any order under section 12 or 13 on the basis of a contravention of section 3, 4, 5, 6 or 7.

(2) Where the victim under section 3, 4, 5 or 6 was outside Singapore when the accused person or respondent (as the case may be) used the words or behaviour, or made the communication in contravention of any such section, the court shall have jurisdiction if the accused person or respondent (as the case may be) was in Singapore when he used those words or behaviour or made that communication, as the case may be.

(3) Where the accused person or respondent (as the case may be) was outside Singapore when he used the words or behaviour, or made the communication, in contravention of section 3, the court shall have jurisdiction if —

(a) the victim of the contravention was in Singapore when the use of those words or behaviour or the making of that communication caused the victim harassment, alarm or distress; and

(b) the accused person or respondent (as the case may be) knew or had reason to believe that the victim of the contravention would be in Singapore at the time referred to in paragraph (a).

(4) Where the accused person or respondent (as the case may be) was outside Singapore when he used the words or behaviour, or made the communication, in contravention of section 4, 5 or 6, the court shall have jurisdiction if —

(a) the victim of the contravention was in Singapore when the victim heard, saw or otherwise perceived those words or behaviour or that communication; and

(b) the accused person or respondent (as the case may be) knew or had reason to believe that the victim of the contravention would be in Singapore at the time referred to in paragraph (a).

(5) Where the victim under section 7 was outside Singapore when any of the acts or omissions associated with unlawful stalking occurred in contravention of that section, the court shall have jurisdiction if the accused person or respondent (as the case may be) was in Singapore when any of those acts or omissions occurred.

(6) Where the accused person or respondent (as the case may be) was outside Singapore when any of the acts or omissions associated with unlawful stalking occurred in contravention of section 7, the court shall have jurisdiction if —

(a) the victim of the contravention was in Singapore when any of those acts or omissions occurred; and

(b) the accused person or respondent (as the case may be) knew or had reason to believe that the victim of the contravention was in Singapore at the time referred to in paragraph (a).

(7) Without prejudice to the jurisdiction and power conferred under this Act or any other written law, the court shall in the circumstances specified in subsections (8) and (9) have jurisdiction to try any offence under section 10 for failure to comply with an order and impose the full punishment under this Act.

(8) In the case of an order prohibiting the respondent from doing any thing in relation to the victim or (in the case of a contravention of

section 7) to any related person specified in the order, where the victim or the related person was outside Singapore when the respondent did any thing prohibited by the order, the court shall have jurisdiction if the respondent was in Singapore when he did that thing.

5 (9) In the case of an order prohibiting the respondent from doing any thing in relation to the victim or (in the case of a contravention of section 7) to any related person specified in the order, the court shall have jurisdiction —

10 (a) where the respondent was outside Singapore when he failed to comply with an order prohibiting him from doing any thing in relation to the victim, if —

(i) the victim was in Singapore when the thing done by the respondent in contravention of the order was heard, seen or otherwise perceived by the victim; and

15 (ii) the respondent knew or had reason to believe that the victim would be in Singapore at the time referred to in sub-paragraph (i);

(b) where the respondent was outside Singapore when he failed to comply with an order prohibiting him from doing any thing in relation to any related person specified in the order (in the case of a contravention of section 7), if —

20 (i) the related person was in Singapore when the thing done by the respondent in contravention of the order was heard, seen or otherwise perceived by the related person; and

25 (ii) the respondent knew or had reason to believe that the related person would be in Singapore at the time referred to in sub-paragraph (i); and

(c) where the respondent was outside Singapore when he failed to comply with an order prohibiting him from publishing or continuing to publish any communication, if —

30 (i) the communication was heard, seen or otherwise perceived by a section of the public in Singapore; and

- (ii) the respondent knew or had reason to believe that communication would be heard, seen or otherwise perceived by a section of the public in Singapore.

(10) In subsections (8) and (9) —

- (a) “victim”, in relation to an offence under section 10 for failure to comply with an order, means the victim under section 3, 4, 5, 6 or 7, as the case may be, in whose favour the order was made; 5
- (b) “respondent”, in relation to an offence under section 10 for failure to comply with an order, means the person who is alleged to have failed to comply with the order in contravention of section 10; and 10
- (c) a reference to any thing done by the respondent includes any words or behaviour used or communication made by the respondent. 15

Power of arrest

18. Any police officer may arrest without warrant any person offending in his view against any of the provisions of this Act, and take him before a Magistrate’s Court to be dealt with according to law.

Rules of Court

19.—(1) The Rules Committee constituted under section 80(3) of the Supreme Court of Judicature Act (Cap. 322) may make Rules of Court to regulate and prescribe the procedure and practice to be followed in respect of civil proceedings under this Act. 20

(2) Without prejudice to the generality of subsection (1), the Rules Committee may make Rules of Court for the following purposes: 25

- (a) to provide for expedited procedures;
- (b) to provide for any orders made under this Act to be published in a specified manner;
- (c) to empower the court to make any ancillary orders for the purposes of this Act; 30

(d) in relation to proceedings for an order under section 12, 13 or 15, where the name of any party to whom the order is intended to apply is unknown, for that party to be identified by an Internet location address, a website, a username or account, an electronic mail address or any other unique identifier;

(e) to prescribe the persons who may bring proceedings for an order under section 12, 13 or 15 and all other civil proceedings under this Act, on behalf of the victim under section 3, 4, 5, 6 or 7, as the case may be, or any other person making an application under this Act; and

(f) to provide for costs and fees of such proceedings, and for regulating any matter relating to the costs of such proceedings,

and section 80 of the Supreme Court of Judicature Act shall apply to the making of these Rules of Court.

(3) Rules of Court may, instead of providing for any matter, refer to any provision made or to be made about that matter by practice directions issued for the time being by the Registrar of the Supreme Court or the Registrar of the State Courts, as the case may be.

Regulations

20.—(1) The Minister may make regulations for carrying out the purposes of this Act and for any matter which is required under this Act to be prescribed.

(2) The powers conferred by this section do not extend to any matter for which Rules of Court may be made under section 19.

Exemptions

21.—(1) A protection order under section 12(2) made for the purpose of section 12(3)(b), an expedited protection order under section 13(1) made for the purpose of section 12(3)(b), and an order made under section 15(2), shall not be made in respect of any class of persons prescribed under subsection (2). 5

(2) The Minister may, by order published in the *Gazette*, prescribe the classes of persons referred to in subsection (1).

(3) Every order made under subsection (2) shall be presented to Parliament as soon as possible after publication in the *Gazette*. 10

Consequential amendments to other written laws

22.—(1) The Criminal Procedure Code (Cap. 68, 2012 Ed.) is amended —

(a) by deleting the words “or under section 13A, 13B, 13C or 13D of the Miscellaneous Offences (Public Order and Nuisance) Act (Cap. 184)” in section 41(1)(b) and substituting the words “, under section 13A, 13B, 13C or 13D of the Miscellaneous Offences (Public Order and Nuisance) Act (Cap. 184) in force before the date of commencement of the Protection from Harassment Act 2014 or under section 3, 4, 5 or 6 of the Protection from Harassment Act 2014”; 15 20

(b) by deleting items 50 and 51 of Part II of the Fourth Schedule; and

(c) by inserting, immediately after Part II of the Fourth Schedule, the following Part:

“PART III
OFFENCES UNDER PROTECTION FROM
HARASSMENT ACT 2014

<i>First column</i>	<i>Second column</i>	<i>Third column</i>	<i>Fourth column</i>
<i>Item No.</i>	<i>Section</i>	<i>Offence</i>	<i>Explanatory Note</i>
54.	3	Intentionally causing harassment, alarm or distress	Compoundable by the victim within the meaning of section 3 of the Protection from Harassment Act 2014
55.	5	Fear or provocation of violence	Compoundable by the victim within the meaning of section 5 of the Protection from Harassment Act 2014
56.	7	Unlawful stalking	Compoundable by the victim within the meaning of section 7 of the Protection from Harassment Act 2014

(2) Sections 13A to 13D of the Miscellaneous Offences (Public Order and Nuisance) Act (Cap. 184, 1997 Ed.) are repealed.

EXPLANATORY STATEMENT

This Bill seeks to make provisions to protect persons against harassment and unlawful stalking, and to make consequential amendments to other written laws.

PART I

PRELIMINARY

Clause 1 relates to the short title and commencement.

Clause 2 defines certain terms used in the Bill.

PART II

OFFENCES

Clauses 3 to 6 re-enact sections 13A to 13D of the Miscellaneous Offences (Public Order and Nuisance) Act (Cap. 184) (the MOA) with modification so as to extend to words, behaviour or communication used or made by “any means” including through electronic means.

Clause 3 re-enacts the offence in section 13A of the MOA relating to “intentionally causing harassment, alarm or distress”. It is a defence for the accused person to prove that his conduct was reasonable.

Clause 4 re-enacts section 13B of the MOA relating to “harassment, alarm or distress”. Unlike clause 3, the accused person need not intend to cause harassment, alarm or distress. In addition to the defence of reasonable conduct, it is also a defence for the accused person to prove that he had no reason to believe that the words, behaviour or communication would be heard, seen or otherwise perceived by the victim.

Clause 5 re-enacts section 13C of the MOA relating to “fear or provocation of violence”, with changes to clarify the meaning of the provision. It is a defence for the accused person to prove that his conduct was reasonable or, in respect of a contravention of subsection (1)(b), that he had no reason to believe that the words, behaviour or communication would be heard, seen or otherwise perceived by the victim.

Clause 6 re-enacts section 13D of the MOA relating to “threatening, abusing or insulting public servant”, but its ambit is extended to “public service workers”, which is defined in that clause. The accused person must know or ought reasonably to know that the public servant or public service worker was acting in that capacity. Intention or actual or constructive knowledge of the likely effects of the accused person’s conduct is not required. The clause also has 2 defences similar to clause 4, with appropriate modifications.

Clause 7 creates the new offence of unlawful stalking, which entails a “course of conduct” which causes harassment, alarm or distress to the victim. Harassment, alarm or distress must be intended, or at least known or ought to be known to be likely. A list of factors is provided for the court to consider in deciding whether harassment, alarm or distress is likely. Non-exhaustive examples and illustrations of “acts or omissions associated with stalking” are listed. Several defences are provided for.

Clause 8 provides for enhanced penalties where the convicted person has a previous conviction for an offence under the relevant provisions of the MOA, before those provisions were repealed, or clause 3, 4, 5, 6 or 7 of the Bill.

Clause 9 empowers the court upon a conviction under clause 3, 4, 5, 6 or 7 to make a community order notwithstanding that such order cannot usually be made for offences punishable with a fine only (such as clause 4).

Clause 10 makes it an offence to fail to comply with a court order made under clause 12 or 13, except for orders under clause 12(3)(c) in relation to mediation and counselling, and related directions. If a person is convicted of an offence under clause 10, he cannot be punished for contempt of court for non-compliance with the order, and vice versa. Failure to comply with orders for the purpose of clause 12(3)(c) and the related directions, and orders under clause 15 may be punishable as a contempt of court.

PART III

REMEDIES

Clause 11 creates a statutory right to bring an action for damages in civil proceedings for a contravention of clause 3, 4, 5 or 7. Clause 6 is excluded.

Clause 12 provides for the victim of a contravention of clause 3, 4, 5, 6 or 7 to apply for a protection order. The District Court may order, amongst other things, that no person is to publish or continue to publish the offending communication and such order is not effective until it has been served, or service has been dispensed with, or if a later effective date is specified. The victim or any person to whom the protection order applies may apply to vary, suspend, cancel or extend it.

Clause 13 empowers the District Court to make an expedited protection order.

Clause 14 declares that the common law tort of harassment is abolished, and no civil proceedings will be brought for harassment except under the Bill.

Clause 15 provides for the subject of a published false statement of fact to apply to court for an order for the publication of a notification which brings attention to the falsehood and the true facts.

Clause 16 provides for a rebuttable presumption of knowledge of the terms of certain orders if the orders are served in accordance with a court order, or if service has been dispensed with.

PART IV GENERAL

Clause 17 confers on a Singapore court jurisdiction under specified circumstances, depending on the contravention concerned, in relation to any offence under Part II, and an order under clause 12 or 13.

Clause 18 provides that an offence under the Bill is an arrestable offence if it is committed in the view of a police officer.

Clause 19 empowers the Rules Committee under the Supreme Court of Judicature Act (Cap. 322) to make Rules of Court in respect of civil proceedings under the Bill.

Clause 20 empowers the Minister to make regulations for the carrying out of the purposes of the Bill and for other matters. The Minister's regulation-making powers do not extend to any matter for which Rules of Court may be made under clause 19.

Clause 21 empowers the Minister to prescribe by order published in the *Gazette* classes of persons against whom orders under clauses 12, 13 and 15 cannot be made.

Clause 22 makes consequential amendments to the Criminal Procedure Code (Cap. 68).

The clause also repeals sections 13A to 13D of the Miscellaneous Offences (Public Order and Nuisance) Act which are now replicated in the Bill with modifications as explained above.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
