

# LEGISLATION UPDATE

2 June 2014

## PROTECTION FROM HARASSMENT ACT 2014

### BACKGROUND

On 13 March 2014, Parliament passed the Protection from Harassment Bill 2014 (“**Bill**”). The Bill will be gazetted as an act, the Protection from Harassment Act (“**Act**”), before it comes into effect on a date to be published in the Government Gazette. The Act will provide protection from harassment and anti-social behaviour, such as stalking, through a range of civil remedies and criminal sanctions.

The Act will abolish the common law tort of harassment and all actions for harassment will be covered under the Act.

Current laws in Singapore, most notably, sections 13A to 13D of the Miscellaneous Offences (Public Order and Nuisance) Act, provide statutory protection from harassment and related anti-social behaviours. However, the Act will extend the scope of existing laws against harassment and related anti-social behaviours by stipulating that harassment and stalking include acts that are committed in the real world as well as online and extends to threatening, abusive or insulting words, behaviour or communication made “by any means”. Examples of acts that would constitute harassment include: cyber bullying, bullying in schools and harassment in the workplace.

The key elements of the Act are discussed in greater detail below.

### UNLAWFUL STALKING

The Act will create a new offence of unlawful stalking. Under the Act, a person (the accused person) unlawfully stalks another person (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;
- (c) the accused person: (i) intends to cause harassment, alarm or distress to the victim; or (ii) knows or ought reasonably to know that the acts or omissions are likely to cause harassment, alarm or distress to the victim.

Some examples of acts or omissions that are associated with unlawful stalking include:

- (a) following the victim or a related person;
- (b) making or attempting to make any communication by any means with the victim, relating to the victim or purporting to originate from the victim;
- (c) entering or loitering in any place (whether public or private) outside or near the victim’s residence or place of business or any other place frequented by the victim;
- (d) interfering with property in the possession of the victim;
- (e) giving or sending material to the victim, or leaving it where it will be found by, given to or brought to the attention of the victim; or
- (f) keeping the victim under surveillance.

### Factors in determining whether a course of conduct is likely to cause harassment, alarm or distress

The court may consider the following factors in deciding whether a course of conduct is likely to cause harassment, alarm or distress:

- (a) the number of occasions, frequency and duration of the acts or omissions;
- (b) the manner, circumstances and particular combination of the acts or omissions;
- (c) 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
- (d) the circumstances of the victim, including his physical or mental health and personality.

(c) the accused person knew or had reason to believe that the victim was or would be in Singapore.

Accused persons who are in Singapore and who commit certain offences under the Act against victims who are outside Singapore will also be caught by the Act.

**PUBLIC SERVANTS**

Public servants or public service workers will be protected under the Act from any "indecent, threatening, abusive or insulting" words, behaviour or communication directed at them in relation to the execution of their duties as public servants or public service workers.

It is a defence for the accused person to prove that his or her course of conduct was:

- (a) reasonable in all the circumstances;
- (b) 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) lawfully done under a duty or power under any written law for the purpose of preventing or detecting crime; or
- (d) done on behalf of the Government and was necessary for the purposes of national security, national defence or the conduct of international relations.

**REMEDIES FOR VICTIMS**

The Act will provide for various remedies for victims of harassment. Such remedies include:

- (a) bringing a civil action in court for damages; and
- (b) applying to court for a protection order, including an expedited protection order.

However, a public servant or public service worker who is subjected to indecent, threatening, abusive or insulting words, behaviour or communication cannot commence civil proceedings under the Act to recover damages.

**EXTRA-TERRITORIAL APPLICATION**

The Singapore courts will have jurisdiction to try certain offences under the Act committed by an accused person outside Singapore if:

- (a) the victim was in Singapore when any of the acts or omissions associated with unlawful stalking, or when the use of the words or behaviour or the making of the communication caused the victim harassment, alarm or distress;
- (b) the victim was in Singapore when the victim heard, saw or perceived the words, behaviour or communication; or

Where a statement has been made about a victim that is "false in any particular", the victim may apply to the District Court for an 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.

**PENALTIES**

The Act will provide the court with a wide range of sentencing options, which include fines, imprisonment and community orders.

For subsequent offenders, the Act provides for an enhanced penalty. Subsequent offenders are, depending on the type of offence committed, liable to a fine of up to S\$10,000, or to imprisonment for a term not exceeding two years or both.

If you have any questions or comments on this article, please contact:



**Gary Low**

Director, Dispute Resolution

T: +65 6531 2497

E: [gary.low@drewnapier.com](mailto:gary.low@drewnapier.com)

## **CONCLUDING REMARKS**

Once the Act comes into effect, victims of harassment and unlawful stalking will be afforded greater protection as the prohibited conduct under the Act includes conduct on cyberspace. They will also have access to a wider range of remedies under the Act.

Although the Act will not create a specific offence of workplace harassment, it is important to note that the Act will cover acts of harassment and unlawful stalking that take place at the workplace.

Employers may therefore wish to assess the adequacy of their internal policies and processes and ensure that there are adequate measures in place to deal with harassment or unlawful stalking in the workplace.

## **REFERENCES**

Please click on the following link to access the document.

### **Protection from Harassment Bill 2014**

---

#### **Editorial Team:**

Jacelyn Chan  
Odesa Tay  
Fiona Tan  
Alvin Chan

*The content of this article does not constitute legal advice and should not be relied on as such. Specific advice should be sought about your specific circumstances. Copyright in this publication is owned by Drew & Napier LLC. This publication may not be reproduced or transmitted in any form or by any means, in whole or in part, without prior written approval.*

Drew & Napier LLC  
10 Collyer Quay  
#10-01 Ocean Financial Centre  
Singapore 049315

[www.drewnapier.com](http://www.drewnapier.com)  
T : +65 6535 0733  
T : +65 9726 0573 (After Hours)  
F : +65 6535 4906