



**JUSTICE TIGHTENS LEGISLATION
ON HARASSMENT.**

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Due to the prevalence of various forms of harassment in society, the Department of Justice and Constitutional Development has introduced the Protection from Harassment Act.

The Act, which was adopted in 2011 and subsequently signed by President Jacob Zuma at the end of 2011, has been enacted into law on Freedom Day, 27 April 2013.

“The objective of this Act is primarily to address the harassment with a court order, in terms of which, the harasser is prohibited from continuing to harass the victim,” explained Advocate Lawrence Bassett, Chief Director responsible for Legislative Development in the department.

order to ascertain the name and address of a harasser whose particulars are not known by the complainant.

The police may, in certain circumstances, also investigate a complaint of harassment made directly to the SAPS to ascertain the identity and address of the harasser.

Advocate Bassett said the Act emanates from an investigation by the South African Law Reform Commission (SALRC) into stalking behaviour. According to SALRC, the existing civil and criminal law framework may not provide adequate recourse to victims of stalking who are not in a domestic relationship. “The SALRC was therefore of the view that legislation should be enacted to act against stalking

who are being harassed by cyber stalkers and persons who are subjected to sexual harassment.”

If a person is being harassed, the victim may apply for a protection order against such conduct at a magistrate’s court. The procedure for applying for a protection order is straight-forward and inexpensive.

Legal representation is not necessary and any person including a child, or a person on behalf of a child, may apply to the court for protection order. “Any person who contravenes such an order will be found guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding five years,” said Advocate Bassett.

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Harassment is defined, in the Act, as “any unreasonable conduct which the perpetrator knows or ought to know will cause harm or inspire the reasonable belief that harm may be caused to a complainant or a related person. The harm caused is not limited to physical harm but is defined to include any mental, psychological or even economic harm.”

The Protection from Harassment Act provides for the granting of a protection order against the harasser. In terms of the Act, a court may order electronic communication service providers to provide a court with the name and address of a person who harasses another person in cyber space, and the South African Police Service (SAPS) to investigate instances of harassment in

as this infringes various rights of a person,” remarked Advocate Bassett.

He added that a similar approach has been adopted in a number of countries as well, such as the United Kingdom, United States of America, Canada and Australia.

The Protection from Harassment Act aims to afford protection to all persons who are the victims of harassing behaviour and whose rights are being infringed by harassment. Specific categories of persons who may benefit from the Act are the poor who are unable to afford expensive legal representation.

Advocate Bassett further explained: “The Act also protects children who are subject to bullying in schools, persons

While the Protection from Harassment Act puts more emphasis on harassing act and behaviour, it will go a long way in protecting and enhancing basic human rights as enshrined in the Bill of Rights. According to Advocate Bassett, Section 10 of the Constitution states that everyone has inherent dignity and has the right to have their dignity respected and protected.

By implementing the Protection from Harassment Act, government is upholding the requirements of Section 7(2) which stipulates that the state must respect, protect, promote and fulfil the rights contained in the Bill of Rights by putting in place a mechanism to address harassment or stalking.