

# A Guide to the Malicious Communications Act 1988

The original Act can be found on [Malicious Communications Act 1988 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

This guide is to help you navigate the Act. Some parts are cited directly from the Act, whilst other sections have been re-written for easy reading.

The Malicious Communications Act 1988 has been written to make provision for the punishment of persons who send or deliver letters or other articles for the purpose of causing distress or anxiety. This is quite a short Act and is pretty much self-explanatory.

## **Offence of sending letters etc. with intent to cause distress or anxiety.**

(1) Any person who sends to another person— (The reporter for this document believes this section should also contain a line to cover social media, so that it also states the following: places in the public domain where the intended recipient can view the communication.)

(a) a letter, electronic communication or article of any description which conveys the following: a message which is indecent or grossly offensive; a threat; or information which is false and known or believed to be false by the sender; or any article or electronic communication which is, in whole or part, of an indecent or grossly offensive nature, is guilty of an offence if his purpose, or one of his purposes, in sending it is that it should, so far as falling within paragraph (a) or (b) above, cause distress or anxiety to the recipient or to any other person to whom he intends that it or its contents or nature should be communicated.

The above section is basically explaining that when you are sending and form of communication regarding another person you need to be factual with information and you should refrain from sending anything that can, or you believe could cause anxiety or distress. This also includes electronic communications such as social media posts, videos or phone calls etc.

(2) A person is not guilty of an offence by virtue of subsection (1) above if he shows the following: that the threat was used to reinforce a demand made by him on reasonable grounds; and that he believed and had reasonable grounds for believing, that the use of the threat was a proper means of reinforcing the demand.

This throws up the questions of what is reasonable, what kinds of demands and of course what the person believes. Which could be interpreted to mean that the person reporting Malicious Communications has to prove that the person sending this kind of thing knew what they were doing.

(2A) In this section “electronic communication” includes the following: any oral or other communication by means of an electronic communications network; and any communication (however sent) that is in electronic form.

(3) In this section references to sending include references to delivering or transmitting and to causing to be sent, delivered or transmitted and “sender” shall be construed accordingly.

(4) A person guilty of an offence under this section is liable to one of the following: on conviction on indictment to imprisonment for a term not exceeding two years and or a fine. on summary conviction to imprisonment for a term not exceeding 12 months and or a fine.

(5) In relation to an offence committed before May 2022, the reference in subsection (4) to 12 months is to be read as a reference to six months.

#### **Northern Ireland.**

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for purposes corresponding to those of this Act—

(a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but

(b) shall be subject to annulment in pursuance of a resolution of either House.

#### **Short title, commencement and extent.**

(1) This Act may be cited as the Malicious Communications Act 1988.

(2) Section 1 above shall not come into force until the end of the period of two months beginning with the day on which this Act is passed.

(3) This Act does not extend to Scotland or, except for section 2, to Northern Ireland.