



# Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012

2012 asp 1

## *Offensive behaviour at regulated football matches*

### **1 Offensive behaviour at regulated football matches**

- (1) A person commits an offence if, in relation to a regulated football match—
- (a) the person engages in behaviour of a kind described in subsection (2), and
  - (b) the behaviour—
    - (i) is likely to incite public disorder, or
    - (ii) would be likely to incite public disorder.
- (2) The behaviour is—
- (a) expressing hatred of, or stirring up hatred against, a group of persons based on their membership (or presumed membership) of—
    - (i) a religious group,
    - (ii) a social or cultural group with a perceived religious affiliation,
    - (iii) a group defined by reference to a thing mentioned in subsection (4),
  - (b) expressing hatred of, or stirring up hatred against, an individual based on the individual's membership (or presumed membership) of a group mentioned in any of sub-paragraphs (i) to (iii) of paragraph (a),
  - (c) behaviour that is motivated (wholly or partly) by hatred of a group mentioned in any of those sub-paragraphs,
  - (d) behaviour that is threatening, or
  - (e) other behaviour that a reasonable person would be likely to consider offensive.
- (3) For the purposes of subsection (2)(a) and (b), it is irrelevant whether the hatred is also based (to any extent) on any other factor.
- (4) The things referred to in subsection (2)(a)(iii) are—
- (a) colour,
  - (b) race,

- (c) nationality (including citizenship),
  - (d) ethnic or national origins,
  - (e) sexual orientation,
  - (f) transgender identity,
  - (g) disability.
- (5) For the purposes of subsection (1)(b)(ii), behaviour would be likely to incite public disorder if public disorder would be likely to occur but for the fact that—
- (a) measures are in place to prevent public disorder, or
  - (b) persons likely to be incited to public disorder are not present or are not present in sufficient numbers.
- (6) A person guilty of an offence under subsection (1) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or to a fine, or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both.

## **2 Regulated football match: definition and meaning of behaviour “in relation to” match**

- (1) In section 1 and this section, “regulated football match”—
- (a) has the same meaning as it has for the purposes of Chapter 1 (football banning orders) of Part 2 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) (see section 55(2) of that Act), but
  - (b) does not include a regulated football match outside Scotland unless the match involves—
    - (i) a national team appointed to represent Scotland, or
    - (ii) a team representing a club that is a member of a football association or league based in Scotland.
- (2) For the purposes of section 1(1), a person’s behaviour is in relation to a regulated football match if—
- (a) it occurs—
    - (i) in the ground where the regulated football match is being held on the day on which it is being held,
    - (ii) while the person is entering or leaving (or trying to enter or leave) the ground where the regulated football match is being held, or
    - (iii) on a journey to or from the regulated football match, or
  - (b) it is directed towards, or is engaged in together with, another person who is—
    - (i) in the ground where the regulated football match is being held on the day on which it is being held,
    - (ii) entering or leaving (or trying to enter or leave) the ground where the regulated football match is being held, or
    - (iii) on a journey to or from the regulated football match.
- (3) The references in subsection (2)(a) and (b) to a regulated football match include a reference to any place (other than domestic premises) at which such a match is televised; and, in the case of such a place, the references in subsection (2)(a) and (b)

to the ground where the regulated football match is being held are to be taken to be references to that place.

- (4) For the purpose of subsection (2)(a) and (b)—
- (a) a person may be regarded as having been on a journey to or from a regulated football match whether or not the person attended or intended to attend the match, and
  - (b) a person’s journey includes breaks (including overnight breaks).

### 3 Fixed penalties

In Part 1 of the table in section 128 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) (fixed penalty offences), after the entry relating to section 52(1) of the Criminal Law (Consolidation) (Scotland) Act 1995, insert—

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“Section 1(1) of the [Offensive Behaviour at Football and Threatening Communications \(Scotland\) Act 2012](#) (asp 1) Offensive behaviour at regulated football matches”

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### 4 Sections 1 and 2: interpretation

- (1) Section 1(1) applies to—
- (a) behaviour of any kind including, in particular, things said or otherwise communicated as well as things done, and
  - (b) behaviour consisting of—
    - (i) a single act, or
    - (ii) a course of conduct.
- (2) In section 1(2)—
- (a) membership, in relation to a group, includes association with members of that group,
  - (b) “presumed” means presumed by the person expressing hatred or, as the case may be, doing the stirring up,
  - (c) “religious group” has the meaning given by section 74(7) of the Criminal Justice (Scotland) Act 2003 (asp 7).
- (3) In section 1(4)—
- (a) “disability” means physical or mental impairment of any kind,
  - (b) “transgender identity” means any of the following—
    - (i) transvestism,
    - (ii) transsexualism,
    - (iii) intersexuality,
    - (iv) having, by virtue of the Gender Recognition Act 2004 (c.7), changed gender,
    - (v) any other gender identity that is not standard male or female gender identity.
- (4) In section 2(3), “televised” means shown (on a screen or by projection onto any surface) whether by means of the broadcast transmission of pictures or otherwise.

## **5 Power to modify sections 1 and 4**

- (1) The Scottish Ministers may by order—
- (a) modify section 1 so as to—
    - (i) add or remove a description of behaviour to or from those for the time being listed in subsection (2) of that section,
    - (ii) vary the description of a behaviour for the time being listed in that subsection,
    - (iii) add or remove a thing to or from those for the time being listed in subsection (4) of that section,
    - (iv) vary the description of a thing for the time being listed in that subsection,
    - (v) disapply paragraph (b) of subsection (5) of that section in relation to a description of behaviour for the time being listed in subsection (2) of that section,
  - (b) modify section 4 so as to—
    - (i) add or remove a definition to or from those for the time being mentioned in subsection (2) or (3) of that section,
    - (ii) vary a definition for the time being mentioned in either of those subsections.
- (2) An order under subsection (1)—
- (a) may make such consequential, transitional, transitory or saving provision as the Scottish Ministers consider appropriate,
  - (b) may, for the purpose of making consequential provision under paragraph (a), modify this Act,
  - (c) is subject to the affirmative procedure.