
STATUTORY INSTRUMENTS

2004 No. 1991

The Criminal Justice (No. 2) (Northern Ireland) Order 2004

Increase in sentence for offences aggravated by hostility

- 2.—(1) This Article applies where a court is considering the seriousness of an offence.
- (2) If the offence was aggravated by hostility, the court—
- (a) shall treat that fact as an aggravating factor (that is to say, a factor that increases the seriousness of the offence); and
 - (b) shall state in open court that the offence was so aggravated.
- (3) For the purposes of this Article an offence is aggravated by hostility if—
- (a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on—
 - (i) the victim’s membership (or presumed membership) of a racial group;
 - (ii) the victim’s membership (or presumed membership) of a religious group;
 - (iii) the victim’s membership (or presumed membership) of a sexual orientation group;
 - (iv) a disability or presumed disability of the victim; or
 - (b) the offence is motivated (wholly or partly) by hostility towards—
 - (i) members of a racial group based on their membership of that group;
 - (ii) members of a religious group based on their membership of that group;
 - (iii) members of a sexual orientation group based on their membership of that group;
 - (iv) persons who have a disability or a particular disability.
- (4) It is immaterial for the purposes of sub-paragraph (a) or (b) of paragraph (3) whether or not the offender’s hostility is also based, to any extent, on any other factor not mentioned in that sub-paragraph.
- (5) In this Article—
- “disability” means any physical or mental impairment;
 - “membership”, in relation to a racial, religious or sexual orientation group, includes association with members of that group;
 - “presumed” means presumed by the offender;
 - “racial group” has the same meaning as in the [Race Relations \(Northern Ireland\) Order 1997 \(NI 6\)](#);
 - “religious group” means a group of persons defined by reference to religious belief or lack of religious belief;
 - “sexual orientation group” means a group of persons defined by reference to sexual orientation.