



# Criminal Justice (Scotland) Act 2003

## 2003 asp 7

### PART 12

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### 74 Offences aggravated by religious prejudice

- (1) This section applies where it is—
  - (a) libelled in an indictment; or
  - (b) specified in a complaint,and, in either case, proved that an offence has been aggravated by religious prejudice.
- (2) For the purposes of this section, an offence is aggravated by religious prejudice if—
  - (a) at the time of committing the offence or immediately before or after doing so, the offender evinces towards the victim (if any) of the offence malice and ill-will based on the victim's membership (or presumed membership) of a religious group, or of a social or cultural group with a perceived religious affiliation; or
  - (b) the offence is motivated (wholly or partly) by malice and ill-will towards members of a religious group, or of a social or cultural group with a perceived religious affiliation, based on their membership of that group.
- (3) Where this section applies, the court must take the aggravation into account in determining the appropriate sentence.
- (4) Where the sentence in respect of the offence is different from that which the court would have imposed had the offence not been aggravated by religious prejudice, the court must state the extent of and the reasons for that difference.
- (5) For the purposes of this section, evidence from a single source is sufficient to prove that an offence is aggravated by religious prejudice.
- (6) In subsection (2)(a)—

“membership” in relation to a group includes association with members of that group; and

---

*Status: This is the original version (as it was originally enacted).*

---

“presumed” means presumed by the offender.

- (7) In this section, “religious group” means a group of persons defined by reference to their—
- (a) religious belief or lack of religious belief;
  - (b) membership of or adherence to a church or religious organisation;
  - (c) support for the culture and traditions of a church or religious organisation; or
  - (d) participation in activities associated with such a culture or such traditions.