



Crime and Disorder Act 1998

1998 CHAPTER 37

PART II

CRIMINAL LAW

Racially-aggravated offences: Scotland

33 Racially-aggravated offences.

After section 50 of the ^{M1}Criminal Law (Consolidation) (Scotland) Act 1995 there shall be inserted the following section—

“ Racially-aggravated harassment

50A Racially-aggravated harassment.

- (1) A person is guilty of an offence under this section if he—
 - (a) pursues a racially-aggravated course of conduct which amounts to harassment of a person and—
 - (i) is intended to amount to harassment of that person; or
 - (ii) occurs in circumstances where it would appear to a reasonable person that it would amount to harassment of that person; or
 - (b) acts in a manner which is racially aggravated and which causes, or is intended to cause, a person alarm or distress.
- (2) For the purposes of this section a course of conduct or an action is racially aggravated if—
 - (a) immediately before, during or immediately after carrying out the course of conduct or action the offender evinces towards the person affected malice and ill-will based on that person's membership (or presumed membership) of a racial group; or

Status: Point in time view as at 30/09/1998.

Changes to legislation: Crime and Disorder Act 1998, Cross Heading: Racially-aggravated offences: Scotland is up to date with all changes known to be in force on or before 24 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) the course of conduct or action is motivated (wholly or partly) by malice and ill-will towards members of a racial group based on their membership of that group.
- (3) In subsection (2)(a) above—
“membership”, in relation to a racial group, includes association with members of that group;
“presumed” means presumed by the offender.
- (4) It is immaterial for the purposes of paragraph (a) or (b) of subsection (2) above whether or not the offender’s malice and ill-will is also based, to any extent, on—
(a) the fact or presumption that any person or group of persons belongs to any religious group; or
(b) any other factor not mentioned in that paragraph.
- (5) A person who is guilty of an offence under this section shall—
(a) on summary conviction, be liable to a fine not exceeding the statutory maximum, or imprisonment for a period not exceeding six months, or both such fine and such imprisonment; and
(b) on conviction on indictment, be liable to a fine or to imprisonment for a period not exceeding seven years, or both such fine and such imprisonment.
- (6) In this section—
“conduct” includes speech;
“harassment” of a person includes causing the person alarm or distress;
“racial group” means a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins,
and a course of conduct must involve conduct on at least two occasions.”

Commencement Information

II S. 33 wholly in force; S. 33 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

Marginal Citations

M1 1995 c.39.

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