



# 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 <sup>M1</sup>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

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**Changes to legislation:** *Crime and Disorder Act 1998, Section 33 is up to date with all changes known to be in force on or before 18 April 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) View outstanding changes*

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- (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.”

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**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)

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**Marginal Citations**

**M1** 1995 c.39.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(1C) inserted by [2010 c. 17 s. 40\(2\)](#) (This amendment not applied to legislation.gov.uk. S. 40 repealed (23.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 46; S.I. 2015/373, art. 4(f)(x))
- s. 8A inserted by [2010 c. 17 s. 41\(3\)](#) (This amendment not applied to legislation.gov.uk. S. 41 repealed (23.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 46; S.I. 2015/373, art. 4(f)(x))
- s. 8A repealed by [2014 c. 12 Sch. 11 para. 24\(c\)](#)
- s. 9(2)(d) and word inserted by [2010 c. 17 s. 41\(4\)\(b\)](#) (This amendment not applied to legislation.gov.uk. S. 41 repealed (23.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 46; S.I. 2015/373, art. 4(f)(x))
- s. 9(2)(d) and word omitted by [2014 c. 12 Sch. 11 para. 26\(4\)\(a\)](#)
- s. 9(2AA) inserted by [2010 c. 17 s. 41\(4\)\(c\)](#) (This amendment not applied to legislation.gov.uk. S. 41 repealed (23.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 46; S.I. 2015/373, art. 4(f)(x))
- s. 9(2AA) repealed by [2014 c. 12 Sch. 11 para. 26\(5\)](#)
- s. 41(5)(i)(ii) words substituted by [2021 c. 11 Sch. 13 para. 37\(3\)](#)
- s. 47(A1) inserted by [2022 c. 35 s. 12\(2\)](#)
- s. 47(1)-(1F) substituted for s. 47(1) by [2022 c. 35 s. 12\(3\)](#)
- s. 47(4)(a) word substituted by [2022 c. 35 s. 12\(6\)\(b\)](#)
- s. 47(4)(a) words renumbered as s. 47(4)(a) by [2022 c. 35 s. 12\(6\)\(a\)](#)
- s. 47(4)(b) and word inserted by [2022 c. 35 s. 12\(6\)\(c\)](#)
- s. 47(4A) inserted by [2022 c. 35 s. 12\(7\)](#)
- s. 50A(6) inserted by [2022 c. 35 Sch. 2 para. 8\(2\)\(b\)](#)
- s. 51(2A)-(2E) inserted by [2022 c. 35 s. 10\(4\)](#)
- s. 51(3A)(3B) substituted for s. 51(3)-(12) by [2022 c. 35 s. 10\(5\)](#)
- s. 51A(A1) inserted by [2022 c. 35 s. 10\(7\)](#)
- s. 51A(3A)-(3E) inserted by [2022 c. 35 s. 10\(9\)](#)
- s. 51A(4A)(4B) substituted for s.0051A(4)-(10) by [2022 c. 35 s. 10\(10\)](#)
- s. 52(2A) inserted by [2022 c. 35 s. 10\(11\)](#)
- Sch. 3 para. 3(11A) inserted by [2003 c. 44 Sch. 3 para. 71\(d\)](#)