

# **ANTI-TERRORISM, CRIME AND SECURITY ACT 2001**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 5: Racial and Religious Hatred**

##### ***Section 37 Meaning of racial hatred***

102. This section removes from the definition of racial hatred in section 17 of the Public Order Act 1986 the requirement that the group of persons against whom the hatred is directed is in Great Britain. The effect is that “racial hatred” in Part 3 of the Public Order Act 1986 will include hatred manifested in Great Britain but directed against a racial group outside Great Britain.

##### ***Section 38 Meaning of fear and hatred***

103. This section makes corresponding amendments to Northern Ireland legislation.

##### ***Section 39 Religiously aggravated offences***

104. *Subsections (1) to (6)* of the section amend Part 2 of the Crime and Disorder Act 1998 so that the nine existing offences under sections 29 to 32 described as “racially aggravated” are committed if they are aggravated by either racial or religious factors.
105. *Subsections (3) and (4)* amend section 28 of the 1998 Act so that it provides for when an offence is racially or religiously aggravated. The effect of the changes is that an offence will be an aggravated offence under the 1998 Act if there is evidence of hostility towards the victim of the offence by the perpetrator at the time of committing the offence or immediately before or after doing so and that hostility is based on the victim's membership of a racial or religious group. Alternatively, an offence is aggravated if there is evidence that it was motivated by hostility towards members of a racial or religious group. The nine aggravated offences in sections 29 to 32 of the Crime and Disorder Act 1998 carry higher maximum penalties than the offences they are based upon.
106. *Subsection (3)(c)* deletes a reference in the 1998 Act to religious hostility being immaterial in determining whether an offence is racially aggravated. This reference is no longer needed as the amended test for aggravation covers hostility based on either racial or religious grounds.
107. *Subsection (4)* defines a religious group as a group of persons defined by reference to religious belief or lack of religious belief.
108. The definition means that offences can be aggravated if the hostility that is shown, or which motivates them, is based on the victim's membership of a group defined by reference to a particular religious belief, lack of a particular religious belief, or lack of any religious belief. This covers those who have no belief, such as atheists, and also

*These notes refer to the Anti-terrorism, Crime and Security Act 2001 (c.24) which received Royal Assent on 14th December 2001*

cases where the hostility is based on the fact that the victim does not share the particular religious beliefs of the perpetrator.

109. The reference to lack of religious belief does not mean that a group identified by any other factors, such as political opinion, would be caught.
110. *Subsections (5) and (6)* provide for the offences that are currently committed if they are racially aggravated to be committed if they are racially or religiously aggravated.
111. *Subsection (7)* amends section 153 of the Powers of Criminal Courts (Sentencing) Act 2000 to refer to racial or religious aggravation. (This section is derived from section 82 of the Crime and Disorder Act 1998.) The effect is that an offence (other than the nine specific aggravated offences listed in sections 29 to 32 of the 1998 Act) may now be aggravated by either racial or religious hostility. If a court is considering the seriousness of an offence and finds that it was aggravated by either of those factors, it is required to treat this as increasing the seriousness of the offence and to state in open court that the offence was found to be aggravated.
112. *Subsection (8)* amends section 24(2) of the Police and Criminal Evidence Act 1984 to reflect the fact that an offence under section 32(1)(a) of the Crime and Disorder Act 1998 can now be racially or religiously aggravated.
113. **Section 40** Racial hatred offences: penalties
114. The section amends section 27(3) of the Public Order Act 1986 to increase the maximum penalty for racial hatred offences in Part 3 from 2 years imprisonment to 7 years.

***Section 41 Hatred and fear offences: penalties***

115. This section makes a similar amendment to penalties contained in Northern Ireland legislation.

***Section 42 Saving***

116. This section makes it clear that the changes made by Part 5 do not apply to anything done before the Part comes into force. The Part will come into force on Royal Assent of the Act.