



Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012

2012 asp 1

Threatening communications

6 Threatening communications

- (1) A person commits an offence if—
 - (a) the person communicates material to another person, and
 - (b) either Condition A or Condition B is satisfied.
- (2) Condition A is that—
 - (a) the material consists of, contains or implies a threat, or an incitement, to carry out a seriously violent act against a person or against persons of a particular description,
 - (b) the material or the communication of it would be likely to cause a reasonable person to suffer fear or alarm, and
 - (c) the person communicating the material—
 - (i) intends by doing so to cause fear or alarm, or
 - (ii) is reckless as to whether the communication of the material would cause fear or alarm.
- (3) For the purposes of Condition A, where the material consists of or includes an image (whether still or moving), the image is taken to imply a threat or incitement such as is mentioned in paragraph (a) of subsection (2) if—
 - (a) the image depicts or implies the carrying out of a seriously violent act (whether actual or fictitious) against a person or against persons of a particular description (whether the person or persons depicted are living or dead or actual or fictitious), and
 - (b) a reasonable person would be likely to consider that the image implies the carrying out of a seriously violent act against an actual person or against actual persons of a particular description.
- (4) Subsection (3) does not affect the generality of subsection (2)(a).

- (5) Condition B is that—
- (a) the material is threatening, and
 - (b) the person communicating it intends by doing so to stir up hatred on religious grounds.
- (6) It is a defence for a person charged with an offence under subsection (1) to show that the communication of the material was, in the particular circumstances, reasonable.
- (7) A person guilty of an offence under subsection (1) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or to a fine, or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both.