



# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART IV

#### DEALING WITH OFFENDERS

### CHAPTER II

#### SCOTLAND

#### *Racial aggravation*

#### **96 Offences racially aggravated.**

- (1) The provisions of this section shall apply where it is—
  - (a) libelled in an indictment; or
  - (b) specified in a complaint,and, in either case, proved that an offence has been racially aggravated.
- (2) An offence is racially aggravated for the purposes of this section 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 racial group; or
  - (b) the offence is motivated (wholly or partly) by malice and ill-will towards members of a racial group based on their membership of that group,and evidence from a single source shall be sufficient evidence to establish, for the purposes of this subsection, that an offence is racially aggravated.
- (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.

*Status: Point in time view as at 28/05/2013.*

*Changes to legislation: Crime and Disorder Act 1998, Cross Heading: Racial aggravation is up to date with all changes known to be in force on or before 06 July 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)*

- (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.
- [<sup>F1</sup>(5) The court must—
- (a) state on conviction that the offence was racially aggravated,
  - (b) record the conviction in a way that shows that the offence was so aggravated,
  - (c) take the aggravation into account in determining the appropriate sentence, and
  - (d) state—
    - (i) where the sentence in respect of the offence is different from that which the court would have imposed if the offence were not so aggravated, the extent of and the reasons for that difference, or
    - (ii) otherwise, the reasons for there being no such difference.]
- (6) In this section “racial group” means a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins.

#### Textual Amendments

- F1** S. 96(5) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp13), {ss. 25(1)}, 206(1); S.S.I. 2010/413, art. 2, Sch. (with saving)

#### Commencement Information

- I1** S. 96 wholly in force; S. 96 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)

**Status:**

Point in time view as at 28/05/2013.

**Changes to legislation:**

Crime and Disorder Act 1998, Cross Heading: Racial aggravation is up to date with all changes known to be in force on or before 06 July 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.