



# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART II

#### CRIMINAL LAW

##### *Racially-aggravated offences: England and Wales*

#### **28 Meaning of “racially aggravated”**

- (1) An offence is racially aggravated for the purposes of sections 29 to 32 below if—
  - (a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim’s membership (or presumed membership) of a racial group; or
  - (b) the offence is motivated (wholly or partly) by hostility towards members of a racial group based on their membership of that group.
- (2) In subsection (1)(a) above—
  - “membership”, in relation to a racial group, includes association with members of that group;
  - “presumed” means presumed by the offender.
- (3) It is immaterial for the purposes of paragraph (a) or (b) of subsection (1) above whether or not the offender’s hostility 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.
- (4) In this section “racial group” means a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins.

#### **29 Racially-aggravated assaults**

- (1) A person is guilty of an offence under this section if he commits—

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- (a) an offence under section 20 of the Offences Against the Person Act 1861 (malicious wounding or grievous bodily harm);
- (b) an offence under section 47 of that Act (actual bodily harm); or
- (c) common assault,

which is racially aggravated for the purposes of this section.

- (2) A person guilty of an offence falling within subsection (1)(a) or (b) above shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding seven years or to a fine, or to both.
- (3) A person guilty of an offence falling within subsection (1)(c) above shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

### **30 Racially-aggravated criminal damage**

- (1) A person is guilty of an offence under this section if he commits an offence under section 1(1) of the Criminal Damage Act 1971 (destroying or damaging property belonging to another) which is racially aggravated for the purposes of this section.
- (2) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding fourteen years or to a fine, or to both.
- (3) For the purposes of this section, section 28(1)(a) above shall have effect as if the person to whom the property belongs or is treated as belonging for the purposes of that Act were the victim of the offence.

### **31 Racially-aggravated public order offences**

- (1) A person is guilty of an offence under this section if he commits—
  - (a) an offence under section 4 of the Public Order Act 1986 (fear or provocation of violence);
  - (b) an offence under section 4A of that Act (intentional harassment, alarm or distress); or
  - (c) an offence under section 5 of that Act (harassment, alarm or distress),
 which is racially aggravated for the purposes of this section.
- (2) A constable may arrest without warrant anyone whom he reasonably suspects to be committing an offence falling within subsection (1)(a) or (b) above.
- (3) A constable may arrest a person without warrant if—
  - (a) he engages in conduct which a constable reasonably suspects to constitute an offence falling within subsection (1)(c) above;
  - (b) he is warned by that constable to stop; and

(c) he engages in further such conduct immediately or shortly after the warning.

The conduct mentioned in paragraph (a) above and the further conduct need not be of the same nature.

- (4) A person guilty of an offence falling within subsection (1)(a) or (b) above shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (5) A person guilty of an offence falling within subsection (1)(c) above shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) If, on the trial on indictment of a person charged with an offence falling within subsection (1)(a) or (b) above, the jury find him not guilty of the offence charged, they may find him guilty of the basic offence mentioned in that provision.
- (7) For the purposes of subsection (1)(c) above, section 28(1)(a) above shall have effect as if the person likely to be caused harassment, alarm or distress were the victim of the offence.

## **32 Racially-aggravated harassment etc**

- (1) A person is guilty of an offence under this section if he commits—
- (a) an offence under section 2 of the Protection from Harassment Act 1997 (offence of harassment); or
  - (b) an offence under section 4 of that Act (putting people in fear of violence), which is racially aggravated for the purposes of this section.
- (2) In section 24(2) of the 1984 Act (arrestable offences), after paragraph (o) there shall be inserted—
- “(p) an offence falling within section 32(1)(a) of the Crime and Disorder Act 1998 (racially-aggravated harassment);”.
- (3) A person guilty of an offence falling within subsection (1)(a) above shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (4) A person guilty of an offence falling within subsection (1)(b) above shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding seven years or to a fine, or to both.
- (5) If, on the trial on indictment of a person charged with an offence falling within subsection (1)(a) above, the jury find him not guilty of the offence charged, they may find him guilty of the basic offence mentioned in that provision.

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- (6) If, on the trial on indictment of a person charged with an offence falling within subsection (1)(b) above, the jury find him not guilty of the offence charged, they may find him guilty of an offence falling within subsection (1)(a) above.
- (7) Section 5 of the Protection from Harassment Act 1997 (restraining orders) shall have effect in relation to a person convicted of an offence under this section as if the reference in subsection (1) of that section to an offence under section 2 or 4 included a reference to an offence under this section.