



# Hate Crime and Public Order (Scotland) Act 2021

2021 asp 14

## PART 2

### OFFENCE OF RACIALLY AGGRAVATED HARASSMENT

#### **3 Racially aggravated harassment**

- (1) A person commits an offence if the person—
  - (a) pursues a racially aggravated course of conduct which amounts to harassment of another 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, another person alarm or distress.
- (2) A course of conduct or an action is racially aggravated if—
  - (a) at the time of carrying out the course of conduct or action, or immediately before or after doing so—
    - (i) the offender demonstrates malice and ill-will towards the victim, and
    - (ii) the malice and ill-will is based on the victim's membership or presumed membership of a group defined by reference to race, colour, nationality (including citizenship), or ethnic or national origins, or
  - (b) the course of conduct or action is motivated (wholly or partly) by malice and ill-will towards a group of persons based on the group being defined by reference to race, colour, nationality (including citizenship), or ethnic or national origins.
- (3) It is immaterial whether or not the offender's malice and ill-will is also based (to any extent) on any other factor.
- (4) A course of conduct must involve conduct on at least two occasions.
- (5) In this section—

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*Status: This is the original version (as it was originally enacted).*

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“conduct” includes speech,

“harassment” of a person includes causing the person alarm or distress,

“membership”, in relation to a group, includes association with members of that group,

“presumed” means presumed by the offender.

- (6) A person who commits an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years or a fine (or both).