



Hate Crime and Public Order (Scotland) Act 2021

2021 asp 14

PART 4

FURTHER PROVISION RELATING TO HATE CRIME

The characteristics

11 Meaning of the characteristics

- (1) This section applies for the interpretation of sections 1, 4 and 9.
- (2) A reference to age includes a reference to an age range.
- (3) A disability is a physical or mental impairment of any kind.
- (4) For the purposes of subsection (3) (but without prejudice to its generality), a medical condition which has, has had, or may have a substantial or long-term effect, or is of a progressive nature, is to be regarded as amounting to an impairment.
- (5) A group defined by reference to religion is a group of persons defined by reference to—
 - (a) religious belief or lack of religious belief,
 - (b) membership of or adherence to a church or religious organisation,
 - (c) support for the culture or traditions of a church or religious organisation,
 - (d) participation in activities associated with such a culture or such traditions.
- (6) A reference to sexual orientation is a reference to sexual orientation towards—
 - (a) persons of the same sex,
 - (b) persons of a different sex, or
 - (c) both persons of the same sex and persons of a different sex.
- (7) A person is a member of a group defined by reference to transgender identity if the person is—
 - (a) a female-to-male transgender person,

Status: This is the original version (as it was originally enacted).

- (b) a male-to-female transgender person,
 - (c) a non-binary person,
 - (d) a person who cross-dresses,
- and references to transgender identity are to be construed accordingly.
- (8) A person is a member of a group defined by reference to variations in sex characteristics if the person is born with physical and biological sex characteristics which, taken as a whole, are neither—
- (a) those typically associated with males, nor
 - (b) those typically associated with females,
- and references to variations in sex characteristics are to be construed accordingly.

12 Power to add the characteristic of sex

- (1) The Scottish Ministers may by regulations add the characteristic of sex to the list of characteristics in one or more of the following provisions—
- (a) section 1(2),
 - (b) section 4(3),
 - (c) section 9(a).
- (2) Regulations under this section may modify sections 14(3) and 15(4) by making provision about the information relating to the characteristic of sex which may require to be included in reports under those sections.
- (3) Regulations under this section may modify section 11 by adding interpretative provision relating to the characteristic of sex.
- (4) Regulations under this section—
- (a) may make incidental, supplementary, consequential, transitional, transitory or saving provision,
 - (b) may make different provision for different purposes,
 - (c) are subject to the affirmative procedure.
- (5) Before laying a draft of a Scottish statutory instrument containing regulations under this section before the Scottish Parliament, the Scottish Ministers must—
- (a) lay before the Scottish Parliament a proposed draft of the instrument,
 - (b) have regard to any representations about the proposed draft that are made to them within the period of 40 days beginning with the day on which the proposed draft is laid and make any changes to the draft instrument that they consider appropriate.
- (6) In calculating the period of 40 days, no account is to be taken of any time during which the Scottish Parliament is dissolved or is in recess for more than 4 days.