



Hate Crime and Public Order (Scotland) Act 2021

2021 asp 14

PART 1

AGGRAVATION OF OFFENCES BY PREJUDICE

1 Aggravation of offences by prejudice

- (1) An offence is aggravated by prejudice if—
- (a) where there is a specific victim of the offence—
 - (i) at the time of committing the offence, or immediately before or after doing so, 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 a characteristic mentioned in subsection (2), or
 - (b) whether or not there is a specific victim of the offence, the offence is motivated (wholly or partly) by malice and ill-will towards a group of persons based on the group being defined by reference to a characteristic mentioned in subsection (2).
- (2) The characteristics are—
- (a) age,
 - (b) disability,
 - (c) race, colour, nationality (including citizenship), or ethnic or national origins,
 - (d) religion or, in the case of a social or cultural group, perceived religious affiliation,
 - (e) sexual orientation,
 - (f) transgender identity,
 - (g) variations in sex characteristics.
- (3) It is immaterial whether or not the offender's malice and ill-will is also based (to any extent) on any other factor.

Status: This is the original version (as it was originally enacted).

- (4) Evidence from a single source is sufficient to prove that an offence is aggravated by prejudice.
- (5) In this section—
- “membership”, in relation to a group, includes association with members of that group,
 - “presumed” means presumed by the offender.