

## Hate Crime and Public Order (Scotland) Bill – Stage 3

### Section 3

#### Liam Kerr

32 In section 3, page 4, line 19, at end insert—

<(3A) Subject to subsection (3B), a person does not commit an offence under this section if the behaviour or communication of the material—

- (a) occurs within a dwelling that is that person’s usual residence, and
- (b) is not heard or seen outside that dwelling.

(3B) Subsection (3A) only applies, provided that there is no more than one individual present when the behaviour or communication of material occurs who is not—

- (a) usually resident at the dwelling, or
- (a) a member of the same family as the person engaging in the behaviour or communication.

(3C) For the purposes of subsection (3B), persons are to be treated as being in the same family only if—

- (a) they are a couple,
- (b) one of them is a relative of the other, or
- (c) one of them is a relative of one member of a couple and the other is a relative of the other member of that couple.

(3D) For the purposes of subsection (3C)—

- (a) a “couple” means two persons who—
  - (i) are married or are civil partners, or
  - (ii) live together as though they were married.
- (b) “relative” means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece,
- (c) a relationship by the half-blood is to be treated as a relationship of the whole blood,
- (d) the stepchild of a person is to be treated as that person's child, and
- (e) person brought up or treated by another person as if the person were that other person's child (including any person placed with that other person, or with that other person's family, under section 26(1)(a) of the Children (Scotland) Act 1995 is to be treated as that other person's child.>

#### Liam Kerr

33 In section 3, page 4, line 19, at end insert—

<(3A) Subject to subsection (3B), a person does not commit an offence under this section if the behaviour or communication of the material—

- (a) occurs within a dwelling that is that person’s usual residence, and

- (b) is not heard or seen outside that dwelling.
- (3B) Subsection (3A) only applies, provided that the only people present when the behaviour or communication of material occurs—
  - (a) usually reside at that dwelling, or
  - (b) are members of the same family as the person engaging in the behaviour or communication.
- (3C) For the purposes of subsection (3B), persons are to be treated as being in the same family only if—
  - (a) they are a couple,
  - (b) one of them is a relative of the other, or
  - (c) one of them is a relative of one member of a couple and the other is a relative of the other member of that couple.
- (3D) For the purposes of subsection (3C)—
  - (a) a “couple” means two persons who—
    - (i) are married or are civil partners, or
    - (ii) live together as though they were married.
  - (b) “relative” means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece,
  - (c) a relationship by the half-blood is to be treated as a relationship of the whole blood,
  - (d) the stepchild of a person is to be treated as that person's child, and
  - (e) person brought up or treated by another person as if the person were that other person's child (including any person placed with that other person, or with that other person's family, under section 26(1)(a) of the Children (Scotland) Act 1995 is to be treated as that other person's child.>

### **After section 9**

#### **Joan McAlpine**

- 11A** As an amendment to amendment 11, line 5, after <criticism> insert <, including that which may be perceived as insulting.>

#### **Johann Lamont**

- 11B** As an amendment to amendment 11, line 10—

- <( ) asserting, or advancing or rejecting any proposition which follows from, the view that—
  - (i) sex is a physical, binary characteristic that cannot be changed,
  - (ii) that the terms “woman”, “man” and related terms refer to sex as such a characteristic,
  - (iii) that a person’s sex may be relevant to that person’s experience or relevant to other persons.>

**Johann Lamont**

**11C** As an amendment to amendment 11, line 17, at end insert—

<( ) beliefs or practices related to age, disability, sexual orientation, transgender identity, or variations in sex characteristics.>

**Johann Lamont**

**11D** As an amendment to amendment 11, line 19, at end insert—

<( ) Nothing in this Act shall be taken as requiring a person to profess any belief or to use language as if they held any belief.>

**Johann Lamont**

**11E** As an amendment to amendment 11, line 19, at end insert—

<( ) The Scottish Ministers may by regulations specify further examples of behaviour or material which is not to be taken to be threatening or abusive.

( ) Regulations under this section are subject to the affirmative procedure.>

**Johann Lamont**

**11F** As an amendment to amendment 11, line 19, at end insert—

<( ) For the purposes of this section, “discussion or criticism” includes the expression of opinions which have the capacity to offend, provoke, discomfort, shock or disturb, including those expressed as antipathy, dislike, ridicule or insult, and includes the rejection of any belief.>

**Section 13**

**Adam Tomkins**

**34** In section 13, page 7, line 25, at end insert—

<( ) “European Convention on Human Rights” means the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4 November 1950.>

**Section 14**

**Johann Lamont**

**35** In section 14, page 8, line 18, leave out <a different> and insert <the other>

**Johann Lamont**

**36** In section 14, page 8, line 19, leave out <a different> and insert <the other>

**Johann Lamont**

- 37 In section 14, page 8, leave out line 25

**After section 15**

**Margaret Mitchell**

- 38 After section 15, insert—

*<Offences under the Act in relation to the characteristic of age*

**Offences under the Act in relation to the characteristic of age**

- (1) This section applies for the purpose of sections 1 and 3.
- (2) When considering whether an offence has been committed in relation to the characteristic of age, regard must be had to the vulnerability of the victim, including whether the victim is—
  - (a) a child under the age of 16, or
  - (b) an older person.>

**Section 15A**

**Johann Lamont**

- 39 In section 15A, page 10, line 22, leave out <a different> and insert <the other>

**Johann Lamont**

- 40 In section 15A, page 10, line 23, leave out <a different> and insert <the other>

**Johann Lamont**

- 41 In section 15A, page 10, line 26, leave out <, or as a person who cross-dresses>

**After section 15A**

**Margaret Mitchell**

- 42 After section 15A, insert—

*<Raising awareness about offences under the Act in relation to the characteristic of age*

**Duty on the Scottish Ministers to raise awareness about offences under the Act in relation to the characteristic of age**

The Scottish Ministers must take such steps as they consider appropriate to promote public awareness and understanding about offences under the Act in relation to the characteristic of age.>