

South Australia

## Racial Vilification Act 1996

An Act to prohibit certain conduct involving vilification of people on the ground of race.

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**The Parliament of South Australia enacts as follows:**

#### 1—Short title

This Act may be cited as the *Racial Vilification Act 1996*.

#### 3—Interpretation

In this Act—

**DPP** means the Director of Public Prosecutions;

**public act** means—

- (a) any form of communication with the public; or
- (b) conduct in a public place;

**race** of a person means the nationality, country of origin, colour or ethnic origin of the person or of another person with whom the person resides or associates;

**threat** includes—

- (a) conduct in which a threat is implicit;
- (b) a conditional threat.

#### 4—Racial vilification

A person must not, by a public act, incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of their race by—

- (a) threatening physical harm to the person, or members of the group, or to property of the person or members of the group; or

- (b) inciting others to threaten physical harm to the person, or members of the group, or to property of the person or members of the group.

Maximum penalty:

If the offender is a body corporate—\$25 000.

If the offender is a natural person—\$5 000, or imprisonment for 3 years, or both.

### **5—DPP's consent required for prosecution**

A prosecution for an offence against this Act cannot be commenced without the DPP's written consent.

### **6—Damages**

- (1) A court by which a person is convicted of an offence against this Act may award damages (including punitive damages) against the defendant.
- (2) Damages may be awarded under subsection (1)—
  - (a) if the offence was directed at a specific person—in favour of that person; or
  - (b) if the offence was directed at the members of a particular racial group—in favour of an organisation formed to further the interests of the relevant group.
- (3) The total amount of the damages that may be awarded for the same act, or series of acts, cannot exceed \$40 000.
- (4) In applying the limit fixed by subsection (3), the court must take into account damages awarded in civil proceedings for the tort of racial victimisation<sup>1</sup> in respect of the same act or series of acts.
- (5) Before a court awards damages under this section, the court must—
  - (a) take reasonable steps to ensure that all persons who may have been harmed by the defendant's conduct are given a reasonable opportunity to claim damages in the proceedings; or
  - (b) take other action that appears reasonable and necessary in the circumstances to protect the interests of possible claimants who are not before the court.

**Note—**

- 1 See section 37 of the *Wrongs Act 1936*.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

### Legislation amended by principal Act

The *Racial Vilification Act 1996* amended the following:

*Wrongs Act 1936*

### Principal Act

Year	No	Title	Assent	Commencement
1996	92	<i>Racial Vilification Act 1996</i>	12.12.1996	6.7.1998 ( <i>Gazette</i> 2.7.1998 p9)

### Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended under <i>Legislation Revision and Publication Act 2002</i>	§
<i>s 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	§
<i>s 7</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	§