

## **Riot s 61 (Offences after 1 December 2008)**

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The prosecution must prove that the defendant:

1. Was one of 12 or more persons gathered together (the assembled persons).
2. Who used, or threatened to use, unlawful violence to a person or property for a common purpose (*here refer to the evidence led by the prosecution on this issue*) at the time.
3. The conduct of them taken together would cause a person in the vicinity to reasonably fear for the person's personal safety.

Each of the assembled persons commits the crime of taking part in the riot.

It is immaterial whether there was, or was likely to be, a person in the vicinity who held the fear for personal safety.

4. Direct on any circumstances of aggravation.<sup>1</sup>

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<sup>1</sup> See penalty provisions contained in s 61(1). See page 114 for directions in relation to grievous bodily harm. See s 1 for the definition of "explosive substance". See page 99.1 for directions on being armed and offensive weapon. The offence is a prescribed offence under s 161Q *Penalties and Sentences Act 1992* so a serious organised crime circumstance of aggravation is applicable.