

Racial and Religious Hatred Act 2006

1 Hatred against persons on religious grounds

The Public Order Act 1986 (c. 64) is amended in accordance with the Schedule to this Act, which creates offences involving stirring up hatred against persons on religious grounds.

2 Racial and religious hatred offences: powers of arrest

In section 24A of the Police and Criminal Evidence Act 1984 (c. 60) (arrest without warrant by persons other than constables) after subsection (4) add- "*(5) This section does not apply in relation to an offence under Part 3 or 3A of the Public Order Act 1986.*"

3 Short title, commencement and extent

(1) This Act may be cited as the Racial and Religious Hatred Act 2006.

(2) This Act comes into force on such day as the Secretary of State may appoint by order made by statutory instrument.

(3) An order under subsection (2) may make-

(a) such supplementary, incidental or consequential provision, or

(b) such transitory, transitional or saving provision,

as the Secretary of State considers appropriate in connection with the coming into force of this Act.

(4) This Act extends to England and Wales only.

SCHEDULE

HATRED AGAINST PERSONS ON RELIGIOUS GROUNDS

Section 1 In the Public Order Act 1986 (c. 64), after Part 3 insert-

"PART 3A HATRED AGAINST PERSONS ON RELIGIOUS GROUNDS

Meaning of "religious hatred"

29A Meaning of "religious hatred"

In this Part "religious hatred" means hatred against a group of persons defined by reference to religious belief or lack of religious belief.

Acts intended to stir up religious hatred

29B Use of words or behaviour or display of written material

(1) A person who uses threatening words or behaviour, or displays any written material which is threatening, is guilty of an offence if he intends thereby to stir up religious hatred.

(2) An offence under this section may be committed in a public or a private place, except that no offence is committed where the words or behaviour are used, or the written material is displayed, by a person inside a dwelling and are not heard or seen except by other persons in that or another dwelling.

(3) A constable may arrest without warrant anyone he reasonably suspects is committing an offence under this section.

(4) In proceedings for an offence under this section it is a defence for the accused to prove that he was inside a dwelling and had no reason to believe that the words or behaviour used, or the written material displayed, would be heard or seen by a person outside that or any other dwelling.

(5) This section does not apply to words or behaviour used, or written material displayed, solely for the purpose of being included in a programme service.

29C Publishing or distributing written material

(1) A person who publishes or distributes written material which is threatening is guilty of an offence if he intends thereby to stir up religious hatred.

(2) References in this Part to the publication or distribution of written material are to its publication or distribution to the public or a section of the public.

29D Public performance of play

(1) If a public performance of a play is given which involves the use of threatening words or behaviour, any person who presents or directs the performance is guilty of an offence if he intends thereby to stir up religious hatred.

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- (2) This section does not apply to a performance given solely or primarily for one or more of the following purposes-
 - (a) rehearsal,
 - (b) making a recording of the performance, or
 - (c) enabling the performance to be included in a programme service;
but if it is proved that the performance was attended by persons other than those directly connected with the giving of the performance or the doing in relation to it of the things mentioned in paragraph (b) or (c), the performance shall, unless the contrary is shown, be taken not to have been given solely or primarily for the purpose mentioned above.
- (3) For the purposes of this section-
 - (a) a person shall not be treated as presenting a performance of a play by reason only of his taking part in it as a performer,
 - (b) a person taking part as a performer in a performance directed by another shall be treated as a person who directed the performance if without reasonable excuse he performs otherwise than in accordance with that person's direction, and
 - (c) a person shall be taken to have directed a performance of a play given under his direction notwithstanding that he was not present during the performance;
and a person shall not be treated as aiding or abetting the commission of an offence under this section by reason only of his taking part in a performance as a performer.
- (4) In this section "play" and "public performance" have the same meaning as in the Theatres Act 1968.
- (5) The following provisions of the Theatres Act 1968 apply in relation to an offence under this section as they apply to an offence under section 2 of that Act-
section 9 (script as evidence of what was performed),
section 10 (power to make copies of script),
section 15 (powers of entry and inspection).

29E Distributing, showing or playing a recording

- (1) A person who distributes, or shows or plays, a recording of visual images or sounds which are threatening is guilty of an offence if he intends thereby to stir up religious hatred.
- (2) In this Part "recording" means any record from which visual images or sounds may, by any means, be reproduced; and references to the distribution, showing or playing of a recording are to its distribution, showing or playing to the public or a section of the public.
- (3) This section does not apply to the showing or playing of a recording solely for the purpose of enabling the recording to be included in a programme service.

29F Broadcasting or including programme in programme service

- (1) If a programme involving threatening visual images or sounds is included in a programme service, each of the persons mentioned in subsection (2) is guilty of an offence if he intends thereby to stir up religious hatred.
- (2) The persons are-
 - (a) the person providing the programme service,
 - (b) any person by whom the programme is produced or directed, and
 - (c) any person by whom offending words or behaviour are used.

Inflammatory material

29G Possession of inflammatory material

- (1) A person who has in his possession written material which is threatening, or a recording of visual images or sounds which are threatening, with a view to-
 - (a) in the case of written material, its being displayed, published, distributed, or included in a programme service whether by himself or another, or
 - (b) in the case of a recording, its being distributed, shown, played, or included in a programme service, whether by himself or another,

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is guilty of an offence if he intends religious hatred to be stirred up thereby.

- (2) For this purpose regard shall be had to such display, publication, distribution, showing, playing, or inclusion in a programme service as he has, or it may be reasonably be inferred that he has, in view.

29H Powers of entry and search

- (1) If in England and Wales a justice of the peace is satisfied by information on oath laid by a constable that there are reasonable grounds for suspecting that a person has possession of written material or a recording in contravention of section 29G, the justice may issue a warrant under his hand authorising any constable to enter and search the premises where it is suspected the material or recording is situated.
- (2) If in Scotland a sheriff or justice of the peace is satisfied by evidence on oath that there are reasonable grounds for suspecting that a person has possession of written material or a recording in contravention of section 29G, the sheriff or justice may issue a warrant authorising any constable to enter and search the premises where it is suspected the material or recording is situated.
- (3) A constable entering or searching premises in pursuance of a warrant issued under this section may use reasonable force if necessary.
- (4) In this section "premises" means any place and, in particular, includes-
- (a) any vehicle, vessel, aircraft or hovercraft,
 - (b) any offshore installation as defined in section 12 of the Mineral Workings (Offshore Installations) Act 1971, and
 - (c) any tent or movable structure.

29I Power to order forfeiture

- (1) A court by or before which a person is convicted of-
- (a) an offence under section 29B relating to the display of written material, or
 - (b) an offence under section 29C, 29E or 29G,
- shall order to be forfeited any written material or recording produced to the court and shown to its satisfaction to be written material or a recording to which the offence relates.
- (2) An order made under this section shall not take effect-
- (a) in the case of an order made in proceedings in England and Wales, until the expiry of the ordinary time within which an appeal may be instituted or, where an appeal is duly instituted, until it is finally decided or abandoned;
 - (b) in the case of an order made in proceedings in Scotland, until the expiration of the time within which, by virtue of any statute, an appeal may be instituted or, where such an appeal is duly instituted, until the appeal is finally decided or abandoned.
- (3) For the purposes of subsection (2)(a)-
- (a) an application for a case stated or for leave to appeal shall be treated as the institution of an appeal, and
 - (b) where a decision on appeal is subject to a further appeal, the appeal is not finally determined until the expiry of the ordinary time within which a further appeal may be instituted or, where a further appeal is duly instituted, until the further appeal is finally decided or abandoned.
- (4) For the purposes of subsection (2)(b) the lodging of an application for a stated case or note of appeal against sentence shall be treated as the institution of an appeal.

29J Protection of freedom of expression

Nothing in this Part shall be read or given effect in a way which prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practising their religion or belief system.

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Supplementary provisions

29K Savings for reports of parliamentary or judicial proceedings

- (1) Nothing in this Part applies to a fair and accurate report of proceedings in Parliament or in the Scottish Parliament.
- (2) Nothing in this Part applies to a fair and accurate report of proceedings publicly heard before a court or tribunal exercising judicial authority where the report is published contemporaneously with the proceedings or, if it is not reasonably practicable or would be unlawful to publish a report of them contemporaneously, as soon as publication is reasonably practicable and lawful.

29L Procedure and punishment

- (1) No proceedings for an offence under this Part may be instituted in England and Wales except by or with the consent of the Attorney General.
- (2) For the purposes of the rules in England and Wales against charging more than one offence in the same count or information, each of sections 29B to 29G creates one offence.
- (3) A person guilty of an offence under this Part is liable-
 - (a) on conviction on indictment to imprisonment for a term not exceeding seven years or a fine or both;
 - (b) on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

29M Offences by corporations

- (1) Where a body corporate is guilty of an offence under this Part and it is shown that the offence was committed with the consent or connivance of a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as it applies to a director.

29N Interpretation

In this Part-

"**distribute**", and related expressions, shall be construed in accordance with section 29C(2) (written material) and section 29E(2) (recordings);

"**dwelling**" means any structure or part of a structure occupied as a person's home or other living accommodation (whether the occupation is separate or shared with others) but does not include any part not so occupied, and for this purpose "structure" includes a tent, caravan, vehicle, vessel or other temporary or movable structure;

"**programme**" means any item which is included in a programme service;

"**programme service**" has the same meaning as in the Broadcasting Act 1990;

"**publish**", and related expressions, in relation to written material, shall be construed in accordance with section 29C(2);

"**religious hatred**" has the meaning given by section 29A;

"**recording**" has the meaning given by section 29E(2), and "play" and "show", and related expressions, in relation to a recording, shall be construed in accordance with that provision;

"**written material**" includes any sign or other visible representation."