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*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

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## SCHEDULES

### SCHEDULE 2

#### OTHER AMENDMENTS

##### *Cable and Broadcasting Act 1984 (c.46)*

- 5 (1) The Cable and Broadcasting Act 1984 as it extends to England and Wales and Scotland is amended as follows.
- (2) Omit section 27 (inclusion of programme in cable programme service likely to stir up racial hatred).
- (3) In section 28 (amendment of the law of defamation), at the end add—
- “(6) In this section " words" includes pictures, visual images, gestures and other methods of signifying meaning.”.
- (4) In section 33(2), in the definition of "relevant offence" omit "an offence under section 27 above or".
- 6 (1) Section 27 of the Cable and Broadcasting Act 1984 as it extends to Northern Ireland is amended as follows.
- (2) For subsections (1) to (5) substitute—
- “(1) If a programme involving threatening, abusive or insulting visual images or sounds is included in a cable programme service, each of the persons mentioned in subsection (2) below is guilty of an offence if—
- (a) he intends thereby to stir up racial hatred, or
- (b) having regard to all the circumstances racial hatred is likely to be stirred up thereby.
- (2) The persons are—
- (a) the person providing the cable 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.
- (3) If the person providing the service, or a person by whom the programme was produced or directed, is not shown to have intended to stir up racial hatred, it is a defence for him to prove that—
- (a) he did not know and had no reason to suspect that the programme would involve the offending material, and
- (b) having regard to the circumstances in which the programme was included in a cable programme service, it was not reasonably practicable for him to secure the removal of the material.
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- (4) It is a defence for a person by whom the programme was produced or directed who is not shown to have intended to stir up racial hatred to prove that he did not know and had no reason to suspect—
- (a) that the programme would be included in a cable programme service, or
  - (b) that the circumstances in which the programme would be so included would be such that racial hatred would be likely to be stirred up.
- (5) It is a defence for a person by whom offending words or behaviour were used and who is not shown to have intended to stir up racial hatred to prove that he did not know and had no reason to suspect—
- (a) that a programme involving the use of the offending material would be included in a cable programme service, or
  - (b) that the circumstances in which a programme involving the use of the offending material would be so included, or in which a programme so included would involve the use of the offending material, would be such that racial hatred would be likely to be stirred up.
- (5A) A person who is not shown to have intended to stir up racial hatred is not guilty of an offence under this section if he did not know, and had no reason to suspect, that the offending material was threatening, abusive or insulting.
- (5B) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment to imprisonment for a term not exceeding two 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.”.
- (3) In subsection (8) (consents to prosecutions), for the words from " shall not be instituted " to the end substitute "shall not be instituted except by or with the consent of the Attorney General for Northern Ireland."
- (4) In subsection (9) (interpretation) for "' racial group' means a group of persons " substitute "' racial hatred' means hatred against a group of persons in Northern Ireland".
- (5) After subsection (10) insert—
- “(11) This section extends to Northern Ireland only.”.