

RACIAL AND RELIGIOUS HATRED ACT 2006

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Racial and Religious Hatred Act 2006, which received Royal Assent on 16th February 2006. They have been prepared by the Home Office in order to assist the reader of the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section, sub section or paragraph does not seem to require any explanation or comment, none is given.

SUMMARY

3. The Act amends the Public Order Act 1986 (“the 1986 Act”) by creating new offences of stirring up hatred against persons on religious grounds and amends section 24A of the Police and Criminal Evidence Act 1984 so that the powers of citizens arrest do not apply to the offences of stirring up religious and racial hatred.
4. The new offences apply to the use of words or behaviour or display of written material (new section 29B), publishing or distributing written material (new section 29C), the public performance of a play (new section 29D), distributing, showing or playing a recording (new section 29E), broadcasting or including a programme in a programme service (new section 29F) and the possession of written materials or recordings with a view to display, publication, distribution or inclusion in a programme service (new section 29G). For each offence the words, behaviour, written material, recordings or programmes must be threatening and intended to stir up religious hatred. Religious hatred is defined as hatred against a group of persons defined by reference to religious belief or lack of religious belief.

BACKGROUND

5. There are existing offences in Part 3 of the 1986 Act against stirring up racial hatred. The Act creates new offences of stirring up hatred against persons on religious grounds by inserting a new Part 3A into the 1986 Act. The Anti-Terrorism, Crime and Security Bill in 2001 and the Serious Organised Crime and Police Bill in the 2004-05 session included provisions which aimed to extend the existing offences in Part 3 of the 1986 Act so that they would also apply to the stirring up of religious hatred but they were not proceeded with to enactment in either case. This Act takes a different approach in that it creates a new part to the 1986 Act rather than extending the existing offences in Part 3 of the Act.
6. The matter was considered by the House of Lords Select Committee on Religious Offences in England and Wales under the chairmanship of Viscount Colville of Culross, which reported in April 2003 (HL 95). The Committee made no formal recommendations.

7. The Committee's Report and the Government's response (Cm 6091, December 2003) were debated in the House of Lords on 22 April 2004 (Hansard col. 443- 480).

TERRITORIAL EXTENT

8. The Act extends only to England and Wales.

THE ACT: COMMENTARY ON CLAUSES

Section 1: Hatred against persons on religious grounds

9. This section gives effect to the Schedule, which creates a new Part 3A of the 1986 Act to create offences involving stirring up hatred against a group of persons on religious grounds. The Act will ensure that the criminal law protects all groups of persons defined by their religious beliefs or lack of religious belief from having religious hatred intentionally stirred up against them in cases set out in sections 29B to 29F.

Section 2: Racial and religious hatred offences: powers of arrest

10. *Section 2* amends section 24A of the Police and Criminal Evidence Act 1984 so as to exempt the offences of stirring up racial or religious hatred from the power of citizens' arrest. Section 24A was inserted into the Police and Criminal Evidence Act 1984 by section 110 of the Serious Organised Crime and Police Act 2001. The purpose of *Section 2* is to ensure that only constables will have the power to arrest persons in the context of these offences.

Schedule: Hatred against persons on religious grounds

11. The Schedule inserts a new Part 3A into the 1986 Act which deals with offences involving stirring up hatred against people on religious grounds. New section 29A defines "religious hatred". The definition is designed to cover hatred against a group of persons defined by their religious belief or lack of religious belief but does not seek to define what amounts to a religion or a religious belief. It will be for the courts to determine whether any particular belief is a religious belief for these purposes.
12. The reference to "religious belief or lack of religious belief" is a broad one, and is in line with the freedom of religion guaranteed by Article 9 of the ECHR. It includes, although this list is not definitive, those religions widely recognised in this country such as Christianity, Islam, Hinduism, Judaism, Buddhism, Sikhism, Rastafarianism, Baha'ism, Zoroastrianism and Jainism. Equally, branches or sects within a religion can be considered as religions or religious beliefs in their own right. The offences also cover hatred directed against a group of persons defined by reference to a lack of religious belief, such as Atheists and Humanists. The offences are designed to include hatred against a group where the hatred is not based on the religious beliefs of the group or even on a lack of any religious belief, but based on the fact that the group do not share the particular religious beliefs of the perpetrator.
13. *New sections 29B to 29F* create new offences of stirring up religious hatred. These offences involve the use of words or behaviour or display of written material (29B), publishing or distributing written material (29C), the public performance of a play (29D), distributing, showing or playing a recording (29E) and broadcasting or including a programme in a programme service (29F).
14. In relation to each offence the words, behaviour, written material or recordings or programme must be threatening, and intended to stir up religious hatred. In the case of the offence at 29B, this does not apply where the words or behaviour are used or displayed inside a private dwelling and there is no reason to believe that they can be heard or seen by a person outside that or any other private dwelling

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15. *New section 29G* creates a new offence of possession of threatening material with a view to using it in a way that is intended to stir up religious hatred.
16. *New section 29J* provides that the offences of stirring up religious hatred are not intended to limit or restrict discussion, criticism or expressions of antipathy, dislike, ridicule or insult or abuse of particular religions or belief systems or lack of religion or of the beliefs and practices of those who hold such beliefs or to apply to proselytisation, evangelism or the seeking to convert people to a particular belief or to cease holding a belief.
17. *New section 29K* makes it clear that the Act does not apply to fair and accurate reports of anything done in the United Kingdom or Scottish Parliaments or the fair and accurate contemporaneous reports of judicial proceedings.
18. *New section 29L* provides that no prosecution for the offences of stirring up religious hatred shall proceed without the consent of the Attorney General. Subsection 29L(3) states that the maximum penalty for a conviction for an offence of stirring up religious hatred is seven years in prison

COMMENCEMENT

19. *Section 3* of the Act provides for commencement. The provisions of the Act will be brought into force by means of a commencement order made by the Secretary of State.

HANSARD REFERENCES

Stage	Date	Hansard reference
Introduction (Commons)	9 th June 2005	Vol. 434
		Col.1404
Second Reading	21 st June 2005	Vol 435
		Col.668-771
Standing Committee E	28 th June 2005	Col. 1-38
Standing Committee E	29 th June 2005	Col.39-76
Standing Committee E	30 th June 2005	Col.77-100
Standing Committee E	30 th June 2005	Col.101-116
Report and Third Reading	11 th July 2005	Vol.436
		Col.597-671
Introduction (Lords)	12 th July 2005	Vol.673
		Col 997
Second Reading	11 October 2005	Vol.674
		Col.161-176 & 189-280
Committee	25 October 2005	Vol.674
		Col.1070-1104 & 1122-1139
Report	8 th November 2005	Vol.675
		Col.509-557
Third Reading	24 January 2006	Vol.677
		Col.1067-1078

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Stage	Date	Hansard reference
CCLA	31 January 2006	Vol.442
		Col.189-244
Royal Assent (Commons)	16 th February 2006	Vol.442
		Col.1579
Royal Assent (Lords)	16 th February 2006	Vol.678
		Col.1253