

RACIAL AND RELIGIOUS HATRED ACT 2006

EXPLANATORY NOTES

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).

*These notes refer to the Racial and Religious Hatred Act
2006 (c.1) which received Royal Assent on 16 February 2006*

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
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