



Theatres Act 1968

1968 CHAPTER 54

Provisions with respect to performances of plays

2 Prohibition of presentation of obscene performances of plays

- (1) For the purposes of this section a performance of a play shall be deemed to be obscene if, taken as a whole, its effect was such as to tend to deprave and corrupt persons who were likely, having regard to all relevant circumstances, to attend it.
- (2) Subject to sections 3 and 7 of this Act, if an obscene performance of a play is given, whether in public or private, any person who (whether for gain or not presented or directed that performance shall be liable—
 - (a) on summary conviction, to a fine not exceeding £400 or to imprisonment for a term not exceeding six months;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding three years, or both.
- (3) A prosecution on indictment for an offence under this section shall not be commenced more than two years after the commission of the offence.
- (4) No person shall be proceeded against in respect of a performance of a play or anything said or done in the course of such a performance—
 - (a) for an offence at common law where it is of the essence of the offence that the performance or, as the case may be, what was said or done was obscene, indecent, offensive, disgusting or injurious to morality ; or
 - (b) for an offence under section 4 of the Vagrancy Act 1824 consisting of wilfully exposing to public view an indecent exhibition, including such an offence under that section as applied to Scotland by section 15 of the Prevention of Crimes Act 1871; or
 - (c) in Scotland, for an offence under section 380 of the Burgh Police (Scotland) Act 1892, where it is of the essence of the offence that the performance or, as the case may be, what was said or done was obscene or indecent;

and no person shall be proceeded against for an offence at common law of conspiring to corrupt public morals, or to do any act contrary to public morals or decency, in

respect of an agreement to present or give a performance of a play, or to cause anything to be said or done in the course of such a performance.

3 Defence of public good

- (1) A person shall not be convicted of an offence under section 2 of this Act if it is proved that the giving of the performance in question was justified as being for the public good on the ground that it was in the interests of drama, opera, ballet or any other art, or of literature or learning.
- (2) It is hereby declared that the opinion of experts as to the artistic, literary or other merits of a performance of a play may be admitted in any proceedings for an offence under section 2 of this Act either to establish or negative the said ground.

4 Amendment of law of defamation

- (1) For the purposes of the law of libel and slander (including the law of criminal libel so far as it relates to the publication of defamatory matter) the publication of words in the course of a performance of a play shall, subject to section 7 of this Act, be treated as publication in permanent form.
- (2) The foregoing subsection shall apply for the purposes of section 3 (slander of title, etc.) of the Defamation Act 1952 as it applies for the purposes of the law of libel and slander.
- (3) In this section " words " includes pictures, visual images, gestures and other methods of signifying meaning.
- (4) This section shall not apply to Scotland.

5 Incitement to racial hatred by means of public performance of a play

- (1) Subject to section 7 of this Act, if there is given a public performance of a play involving the use of threatening, abusive or insulting words, any person who (whether for gain or not) presented or directed that performance shall be guilty of an offence under this section if—
 - (a) he did so with intent to stir up hatred against any section of the public in Great Britain distinguished by colour, race or ethnic or national origins ; and
 - (b) that performance, taken as a whole, is likely to stir up hatred against that section on grounds of colour, race or ethnic or national origins.
- (2) A person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to a fine not exceeding £200 or to imprisonment for a term not exceeding six months, or both;
 - (b) on conviction on indictment, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding two years, or both.

6 Provocation of breach of peace by means of public performance of a play

- (1) Subject to section 7 of this Act, if there is given a public performance of a play involving the use of threatening, abusive or insulting words or behaviour, any person who (whether for gain or not) presented or directed that performance shall be guilty of an offence under this section if—

- (a) he did so with intent to provoke a breach of the peace ; or
 - (b) the performance, taken as a whole, was likely to occasion a breach of the peace.
- (2) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding £100 or to imprisonment for a term not exceeding three months, or both;
 - (b) on conviction on indictment, to a fine not exceeding £500 or to imprisonment for a term not exceeding twelve months, or both.

7 Exceptions for performances given in certain circumstances

- (1) Nothing in sections 2 to 4 of this Act shall apply in relation to a performance of a play given on a domestic occasion in a private dwelling.
- (2) Nothing in sections 2 to 6 of this Act shall apply in relation to a performance of a play given solely or primarily for one or more of the following purposes, that is to say—
- (a) rehearsal; or
 - (b) to enable—
 - (i) a record or cinematograph film to be made from or by means of the performance; or
 - (ii) the performance to be broadcast; or
 - (iii) the performance to be transmitted to subscribers to a diffusion service ;

but in any proceedings for an offence under section 2, 5 or 6 of this Act alleged to have been committed in respect of a performance of a play or an offence at common law alleged to have been committed in England and Wales by the publication of defamatory matter in the course of a performance of a play, if it is proved that the performance was attended by persons other than persons directly connected with the giving of the performance or the doing in relation thereto of any of the things mentioned in paragraph (b) above, the performance shall be taken not to have been given solely or primarily for one or more of the said purposes unless the contrary is shown.

- (3) In this section—

" broadcast " means broadcast by wireless telegraphy (within the meaning of the Wireless Telegraphy Act 1949), whether by way of sound broadcasting or television ;

" cinematograph film " means any print, negative, tape or other article on which a performance of a play or any part of such a performance is recorded for the purposes of visual reproduction;

" record " means any record or similar contrivance for reproducing sound, including the sound-track of a cinematograph film;

and section 48(3) of the Copyright Act 1956 (which explains the meaning of references in that Act to the transmission of a work or other subject-matter to subscribers to a diffusion service) shall apply for the purposes of this section as it applies for the purposes of that Act.

8 Restriction on institution of proceedings

Proceedings for an offence under section 2, 5 or 6 of this Act or an offence at common law committed by the publication of defamatory matter in the course of a performance of a play shall not be instituted in England and Wales except by or with the consent of the Attorney-General.

9 Script as evidence of what was performed

- (1) Where a performance of a play was based on a script, then, in any proceedings for an offence under section 2, 5 or 6 of this Act alleged to have been committed in respect of that performance—
 - (a) an actual script on which that performance was based shall be admissible as evidence of what was performed and of the manner in which the performance or any part of it was given; and
 - (b) if such a script is given in evidence on behalf of any party to the proceedings then, except in so far as the contrary is shown, whether by evidence given on behalf of the same or any other party, the performance shall be taken to have been given in accordance with that script.
- (2) In this Act "script", in relation to a performance of a play, means the text of the play (whether expressed in words or in musical or other notation) together with any stage or other directions for its performance, whether contained in a single document or not.

10 Power to make copies of scripts

- (1) If a police officer of or above the rank of superintendent has reasonable grounds for suspecting—
 - (a) that an offence under section 2, 5 or 6 of this Act has been committed by any person in respect of a performance of a play; or
 - (b) that a performance of a play is to be given and that an offence under the said section 2, 5, or 6 is likely to be committed by any person in respect of that performance,he may make an order in writing under this section relating to that person and that performance.
- (2) Every order made under this section shall be signed by the police officer by whom it is made, shall name the person to whom it relates, and shall describe the performance to which it relates in a manner sufficient to enable that performance to be identified.
- (3) Where an order under this section has been made, any police officer, on production if so required of the order—
 - (a) may require the person named in the order to produce, if such a thing exists, an actual script on which the performance was or, as the case may be, will be based ; and
 - (b) if such a script is produced to him, may require the person so named to afford him an opportunity of causing a copy thereof to be made.
- (4) Any person who without reasonable excuse fails to comply with a requirement under subsection (3) above shall be liable on summary conviction to a fine not exceeding £100.

- (5) Where, in the case of a performance of a play based on a script, a copy of an actual script on which that performance was based has been made by or on behalf of a police officer by virtue of an order under this section relating to that performance, section 9(1) of this Act shall apply in relation to that copy as it applies in relation to an actual script on which the performance was based.

11 Delivery of scripts of new plays to British Museum

- (1) Where after the coming into force of this section there is given in Great Britain a public performance of a new play, being a performance based on a script, a copy of the actual script on which that performance was based shall be delivered to the Trustees of the British Museum free of charge within the period of one month beginning with the date of the performance ; and the Trustees shall give a written receipt for every script delivered to them pursuant to this section.
- (2) If the requirements of subsection (1) above are not complied with in the case of any performance to which that subsection applies, any person who presented that performance shall be liable on summary conviction to a fine not exceeding £5.
- (3) In this section " public performance of a new play" means a public performance of a play of which no previous public performance has ever been given in Great Britain, but does not include a public performance of a play which—
- (a) is based on a script substantially the same as that on which a previous public performance of a play given there was based ; or
 - (b) is based substantially on a text of the play which has been published in the United Kingdom.
- (4) For the purposes of this section a performance of a play given solely or primarily for one or more of the purposes mentioned in section 7(2)(a) and (b) of this Act shall be disregarded.