Public Order Act 1986

1986 CHAPTER 64

PART III

RACIAL HATRED

Meaning of "racial hatred"

17 Meaning of "racial hatred".

In this Part "racial hatred" means hatred against a group of persons [F1]. . . defined by reference to colour, race, nationality (including citizenship) or ethnic or national origins.

Textual Amendments

F1 Words in s. 17 repealed (14.12.2001) by 2001 c. 24, ss. 37, 125, 127(2), **Sch. 8 Pt. 4** (with s. 42)

Acts intended or likely to stir up racial hatred

18 Use of words or behaviour or display of written material.

(1) A person who uses threatening, abusive or insulting words or behaviour, or displays any written material which is threatening, abusive or insulting, 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) 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.

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(3) [F2]. . . . . .

(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) 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 intend his words or behaviour, or the written material, to be, and was not aware that it might be, threatening, abusive or insulting.

(6) This section does not apply to words or behaviour used, or written material displayed, solely for the purpose of being included in a programme **[**[F3]included in a programme service**]**.

Textual Amendments

F2 S. 18(3) repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 174(2), 178(8), Sch. 7 para. 26(11), **Sch 17 Pt. 2**; S.I. 2005/3495, **art. 2(m)(u)(xxvi)**

F3 Words substituted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 164(2)**

19 Publishing or distributing written material.

(1) A person who publishes or distributes written material which is threatening, abusive or insulting 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) In proceedings for an offence under this section it is a defence for an accused who is not shown to have intended to stir up racial hatred to prove that he was not aware of the content of the material and did not suspect, and had no reason to suspect, that it was threatening, abusive or insulting.

(3) 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.

20 Public performance of play.

(1) If a public performance of a play is given which involves the use of threatening, abusive or insulting words or behaviour, any person who presents or directs the performance is guilty of an offence if—

(a) he intends thereby to stir up racial hatred, or

(b) having regard to all the circumstances (and, in particular, taking the performance as a whole) racial hatred is likely to be stirred up thereby.

(2) If a person presenting or directing the performance is not shown to have intended to stir up racial hatred, it is a defence for him to prove—

(a) that he did not know and had no reason to suspect that the performance would involve the use of the offending words or behaviour, or

(b) that he did not know and had no reason to suspect that the offending words or behaviour were threatening, abusive or insulting, or

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(c) that he did not know and had no reason to suspect that the circumstances in which the performance would be given would be such that racial hatred would be likely to be stirred up.

(3) 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 **[**[F4]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 purposes mentioned above.

(4) 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.

(5) In this section "play" and "public performance" have the same meaning as in the [M1]Theatres Act 1968.

(6) 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).

Textual Amendments

F4 Words substituted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 164(2)**

Marginal Citations

M1 1968 c. 54.

21 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, abusive or insulting 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.

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(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 of a recording are to its distribution, showing or playing to the public or a section of the public.

(3) In proceedings for an offence under this section it is a defence for an accused who is not shown to have intended to stir up racial hatred to prove that he was not aware of the content of the recording and did not suspect, and had no reason to suspect, that it was threatening, abusive or insulting.

(4) This section does not apply to the showing or playing of a recording solely for the purpose of enabling the recording to be **[**[F5]included in a programme service**]**.

Textual Amendments

F5 Words substituted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 164(2)**

22 Broadcasting or including programme in cable programme service.

(1) If a programme involving threatening, abusive or insulting visual images or sounds is **[**[F6]included in a programme service**]**, each of the persons mentioned in subsection (2) 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 . . . [F7] 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 **[**[F8]included in a programme service**]**, it was not reasonably practicable for him to secure the removal of the material.

(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 **[**[F8]included in a programme service**]**, or

(b) that the circumstances in which the programme would be . . . [F9]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—

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(a) that a programme involving the use of the offending material would be **[**[F8]included in a programme service**]**, or

(b) that the circumstances in which a programme involving the use of the offending material would be . . . [F9] so included, or in which a programme . . . [F9] so included would involve the use of the offending material, would be such that racial hatred would be likely to be stirred up.

(6) 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.

(7) . . . . . [F10]

Textual Amendments

F6 Words substituted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 164(3)(a)**

F7 Words repealed by Broadcating Act 1990 (c. 42, SIF 96), ss. 164(3)(b)(i), 203(3), **Sch. 21**

F8 Words substituted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 164(3)(a)**

F9 Words repealed by Broadcasting Act 1990 (c. 42, SIF 96), ss. 164(3)(b)(ii), 203(3), **Sch. 21**

F10 S. 22(7)(8) repealed by Broadcasting Act 1990 (c. 42, SIF 96), ss. 164(3)(b)(iii)(iv), 203(3), **Sch. 21**

Racially inflammatory material

23 Possession of racially inflammatory material.

(1) A person who has in his possession written material which is threatening, abusive or insulting, or a recording of visual images or sounds which are threatening, abusive or insulting, with a view to—

(a) in the case of written material, its being displayed, published, distributed, **[**[F11]or included in a cable programme service**]**, whether by himself or another, or

(b) in the case of a recording, its being distributed, shown, played, **[**[F11]or included in a cable programme service**]**, whether by himself or another,

is guilty of an offence if he intends racial hatred to be stirred up thereby or, having regard to all the circumstances, racial hatred is likely to be stirred up thereby.

(2) For this purpose regard shall be had to such display, publication, distribution, showing, playing, **[**[F12]or inclusion in a programme service**]** as he has, or it may reasonably be inferred that he has, in view.

(3) In proceedings for an offence under this section it is a defence for an accused who is not shown to have intended to stir up racial hatred to prove that he was not aware of the content of the written material or recording and did not suspect, and had no reason to suspect, that it was threatening, abusive or insulting.

(4) . . . . . [F13]

Textual Amendments

F11 Words substituted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 164(4)(a)**

F12 Words substituted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 164(4)(b)**

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F13 S. 23(4) repealed by Broadcasting Act 1990 (c. 42, SIF 96), ss. 164(4)(c), 203(3), **Sch. 21**

24 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 23, 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 23, 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 1(3) (b) of the [M2]Mineral Workings (Offshore Installations) Act 1971, and

(c) any tent or movable structure.

Marginal Citations

M2 1971 c. 61.

25 Power to order forfeiture.

(1) A court by or before which a person is convicted of—

(a) an offence under section 18 relating to the display of written material, or

(b) an offence under section 19, 21 or 23,

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

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(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.

Supplementary provisions

26 Savings for reports of parliamentary or judicial proceedings.

(1) Nothing in this Part applies to a fair and accurate report of proceedings in Parliament **[**[F14]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.

Textual Amendments

F14 Words in s. 26 inserted (6.5.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 24** (with s 126(3)-(11); S.I. 1998/3178, art. 2, **Sch. 3**

27 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 18 to 23 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 **[**[F15]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.

Textual Amendments

F15 Words in s. 27(3) substituted (14.12.2001) by 2001 c. 24, **ss. 40**, 127(2) (with s. 42)

28 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.

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(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.

29 Interpretation.

In this Part—

. . . . . F16

. . . . . F16

"distribute", and related expressions, shall be construed in accordance with section 19(3) (written material) and section 21(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 **[**F17included in a programme service**]**;

[F18"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 19 (3);

"racial hatred" has the meaning given by section 17;

"recording" has the meaning given by section 21(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.

Textual Amendments

F16 Definitions repealed by Broadcasting Act 1990 (c. 42, SIF 96), ss. 164(5)(a), 203(3), **Sch. 21**

F17 Words substituted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 164(5)(b)**

F18 Definition inserted by Broadcasting Act 1990 (c. 42, SIF 96), **s. 164(5)(c)**

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