



# Public Order Act 1986

## 1986 CHAPTER 64

### PART III

#### RACIAL HATRED

##### *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.
- (3) A constable may arrest without warrant anyone he reasonably suspects is committing an offence under this section.
- (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.

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*Status: This is the original version (as it was originally enacted).*

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- (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 broadcast or included in a cable programme service.

## **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
  - (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 broadcast or included in a cable 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 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).

## **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.
- (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 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 broadcast or included in a cable programme service.

## **22 Broadcasting or including programme in cable programme service.**

- (1) If a programme involving threatening, abusive or insulting visual images or sounds is broadcast, or included in a cable 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—

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- (a) the person providing the broadcasting or 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 broadcast, or included in a cable 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 broadcast or included in a cable programme service, or
  - (b) that the circumstances in which the programme would be broadcast or 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 broadcast or included in a cable programme service, or
  - (b) that the circumstances in which a programme involving the use of the offending material would be broadcast, or so included, or in which a programme broadcast or 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) This section does not apply—
- (a) to the broadcasting of a programme by the British Broadcasting Corporation or the Independent Broadcasting Authority, or
  - (b) to the inclusion of a programme in a cable programme service by the reception and immediate re-transmission of a broadcast by either of those authorities.
- (8) The following provisions of the Cable and Broadcasting Act 1984 apply to an offence under this section as they apply to a "relevant offence" as defined in section 33(2) of that Act—
- section 33 (scripts as evidence),
  - section 34 (power to make copies of scripts and records),
  - section 35 (availability of visual and sound records);
- and sections 33 and 34 of that Act apply to an offence under this section in connection with the broadcasting of a programme as they apply to an offence in connection with the inclusion of a programme in a cable programme service.