
**RACIAL AND RELIGIOUS HATRED ORDINANCE
2014**

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**RACIAL AND RELIGIOUS HATRED ORDINANCE
2014**

An Ordinance to make provision about offences involving stirring up hatred against persons on racial and religious grounds and for related purposes

R.J. CRIPWELL

5 September 2014

ADMINISTRATOR

BE it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:—

PART 1

Preliminary

Short title

1. This Ordinance may be cited as the Racial and Religious Hatred Ordinance 2014.

Commencement

2. This Ordinance comes into force on 1 October 2014.

Interpretation

- 3.—(1) In this Ordinance—

“dwelling” means a 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 movable structure;

“public performance” includes—

- (a) a performance that is not open for the public but is promoted for private gain; and
- (b) a performance that the public or a section of the public is permitted to attend, whether on payment or otherwise;

“racially or religiously aggravated” must be construed in accordance with section 4;

“racial group” means a group of persons defined by reference to race, colour, descent or national or ethnic origin;

“recording” means a record from which visual images or sounds may, by any means, be reproduced;

“religious group” means any group of persons defined by reference to religious belief or lack of religious belief;

“written material” includes any sign or other visible representation.

(2) In this Ordinance—

- (a) reference to the publication or distribution of written material are to its publication or distribution to the public or to a section of the public;
- (b) 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.

Meaning of racially or religiously aggravated

4.—(1) An offence is racially or religiously aggravated for the purposes of this Ordinance if—

- (a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim’s membership (or presumed membership) of a racial or religious group; or
- (b) the offence is motivated (wholly or partly) by hostility towards members of a racial or religious group based on their membership of that group.

(2) In subsection (1)(a)—

“membership”, in relation to a racial or religious group, includes association with members of that group;

“presumed” means presumed by the offender.

(3) It is immaterial for the purposes of paragraph (a) or (b) of subsection (1) whether or not the offender’s hostility is also based, to any extent, on any other factor not referred to in that paragraph.

PART 2

Racial and religious hatred

CHAPTER 1

Offence

Use of words or behaviour or display of written material

5.—(1) A person who uses threatening, abusive or insulting words or behaviour, or displays any written material that is threatening, abusive or insulting, commits an offence if the person intends thereby to stir up hatred against a racial group.

(2) A person who uses threatening words or behaviour, or displays any written material that is threatening, commits an offence if the person intends thereby to stir up hatred against a religious group.

(3) An offence under this section may be committed in a public or 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.

(4) In proceedings for an offence under this section, it is a defence for the accused to prove that the accused 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) This section does not apply to words or behaviour used, or written material displayed, solely for the purpose of being included in a radio or television broadcast.

Publishing or distributing written material to public

6.—(1) A person who publishes or distributes written material that is threatening, abusive or insulting commits an offence if the person intends thereby to stir up hatred against a racial group.

(2) A person who publishes or distributes written material that is threatening commits an offence if the person intends thereby to stir up hatred against a religious group.

Public performance of play

7.—(1) Where a public performance of a play is given that involves the use of threatening, abusive or insulting words or behaviour, any person who presents or directs the performance commits an offence if the person intends thereby to stir up hatred against a racial group.

(2) Where a public performance of a play is given that involves the use of threatening words or behaviour, any person who presents or directs the performance commits an offence if the person intends thereby to stir up hatred against a religious group.

(3) This section does not apply to a performance given solely or primarily for 1 or more of the following purposes—

- (a) rehearsal;
- (b) making a recording of the performance;
- (c) enabling the performance to be included in a radio or television broadcast.

(4) However, 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 referred to in subsection (3), the performance must, unless the contrary is shown, be taken not to have been given solely or primarily for the purpose referred to in subsection (3).

(5) For the purposes of this section—

- (a) a person is not to be treated as presenting a performance of a play by reason only of taking part in it as a performer;
- (b) a person (P) taking part as a performer in a performance directed by another person (D) is to be treated as a person who directed the performance if, without reasonable excuse, P performs otherwise than in accordance with D's direction;
- (c) a person is to be treated as having directed a performance of a play given under the person's direction despite not being present during the performance.

(6) A person is not to be treated as aiding or abetting the commission of an offence under this section by reason only of the person's taking part in a performance as a performer.

Distributing, showing or playing a recording in public

8.—(1) A person who distributes, shows or plays a recording of visual images or sounds that are threatening, abusive or insulting commits an offence if the person intends thereby to stir up hatred against a racial group.

(2) A person who distributes, shows or plays a recording of visual images or sounds that are threatening commits an offence if the person intends thereby to stir up hatred against a religious group.

(3) This section does not apply to the showing or playing of recordings solely for the purpose of enabling the recording to be broadcast.

Broadcasting programmes

9.—(1) Where a programme involving threatening, abusive or insulting visual images or sounds is broadcast, each person referred to in subsection (3) commits an offence if the person intends thereby to stir up hatred against a racial group.

(2) Where a programme involving threatening visual images or sounds is broadcast, each person referred to in subsection (3) commits an offence if the person intends thereby to stir up hatred against a religious group.

(3) The persons are—

- (a) the person broadcasting the programme;
- (b) any person by whom the programme is produced or directed;
- (c) any person by whom offending words or behaviour are used.

Possession of inflammatory material

10.—(1) A person (P) who has in P's possession written material that is threatening, abusive or insulting, or a recording of visual images or sounds that are threatening, abusive or insulting, with a view to—

- (a) in the case of written material, its being displayed, published, distributed or broadcast (whether by P or another person); or
- (b) in the case of a recording, its being distributed, shown, played or broadcast (whether by P or another person),

commits an offence if P intends hatred against a racial group to be stirred up thereby.

(2) A person (P) who has in P's possession written material that is threatening, or a recording of visual images or sounds that are threatening, with a view to—

- (a) in the case of written material, its being displayed, published, distributed or broadcast (whether by P or another person); or
- (b) in the case of a recording, its being distributed, shown, played or broadcast (whether by P or another person),

commits an offence if P intends hatred against a religious group to be stirred up thereby.

(3) For the purposes of subsections (1) and (2), regard must be had to such display, publication, distribution, showing, playing or broadcast as P has, or it may reasonably be inferred that P has, in view.

CHAPTER 2

Supplementary

Protection of freedom of expression

11. Nothing in this Part is to be read or given effect in a way which prohibits or restricts—

- (a) discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs and practices of their adherents, or of any other belief system or the beliefs or practices of its adherents;
- (b) proselytising or urging adherents of a different religion or belief system to cease practising their religion or belief system.

Savings for reports of parliamentary or judicial proceedings

12.—(1) Nothing in this Part applies to a fair and accurate report of proceedings in the Parliament of the United Kingdom or the Parliament of the Republic.

(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.

Attorney-General and Legal Adviser's consent required for prosecution of offences under this Part

13. No proceedings for an offence under this Part may be instituted except by, or with the consent of, the Attorney-General and Legal Adviser.

Penalty for offences under this Part

14. A person convicted of an offence under this Part is liable to imprisonment for a term not exceeding 5 years or a fine not exceeding €10,000 or to both.

Officers of companies, etc.

15.—(1) If an offence under this Part is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body or a person purporting to act in such a capacity, that person (as well as the body corporate) commits the offence.

(2) If an offence under this Part is committed by a partnership and is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a partner or a person purporting to act in such a capacity, that person (as well as the partnership) commits the offence.

(3) In subsection (1), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body.

Forfeiture

16.—(1) Where a person is convicted of an offence under section 5 relating to the display of written material or an offence under sections 6, 8 or 10, the court must 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) However, an order under subsection (1) must not take effect until the time for instituting an appeal has expired or, where an appeal is instituted, until it is finally decided or abandoned.

Criminal Procedure Ordinance amended

17.—(1) The Criminal Procedure Ordinance (a) is amended in accordance with this section.

(2) Section 15 is amended by adding the following subsection—

“(4) This section does not apply in relation to an offence under Part 2 of the Racial and Religious Hatred Ordinance 2014.”.

(a) Cap.155, Laws of Cyprus (1959 ed). Legislation of the former colony of Cyprus has effect in the Areas by virtue of article 5 of the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369 (UK)). Schedule 2 to the Interpretation Ordinance 2012 provides for the interpretation of such legislation.

PART 3

Racially or religiously aggravated offences

Increase in sentence for racial or religious aggravation

18.—(1) This section applies where, for the purposes of sentencing an offender, a court is considering the seriousness of an offence committed under any Ordinance other than this Ordinance.

(2) If the offence was racially or religiously aggravated, the court must—

- (a) treat that fact as an aggravating factor (that is to say, as a factor that increases the seriousness of the offence); and
- (b) state in open court that the offence was so aggravated.

Increase in maximum penalty for racial or religious aggravation

19.—(1) A person convicted of an offence under any Ordinance other than this Ordinance, which is racially or religiously aggravated, is liable on conviction to imprisonment for a term not exceeding 5 years or a fine not exceeding €10,000 or to both.

(2) Subsection (1) does not apply if the maximum penalty for the offence is higher than the penalty specified in that subsection.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

1. This explanatory note relates to the Racial and Religious Hatred Ordinance 2014 (the “Ordinance”). It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance and should be read in conjunction with it.

2. Part 2 of the Ordinance creates a number of offences relating to stirring up hatred against a racial group (i.e. a group of persons defined by reference to race, colour, descent or national or ethnic origin) or a religious group (i.e. a group of persons defined by reference to religious belief or lack of religious belief).

3. Part 3 of the Ordinance relates to offences that are racially or religiously aggravated (as defined in section 4). Section 18 provides that where the court has convicted a person for an offence under any other Ordinance, the court must treat the fact that the offence was racially or religiously aggravated as a factor that increases the seriousness of the offence for the purpose of sentencing the offender and must state that the offence was racially or religiously aggravated. Section 19 provides that the maximum penalty for such an offence is a term of imprisonment of 5 years or a fine of €10,000, or both, unless the maximum penalty provided by the other Ordinance is higher than that.

4. The Ordinance reflects (in part) provision made by the Republic in Law 134(I)/2011.