
STATUTORY INSTRUMENTS

1987 No. 463

The Public Order (Northern Ireland) Order 1987

PART III

STIRRING UP HATRED OR AROUSING FEAR

Acts intended or likely to stir up hatred or arouse fear

Meaning of “fear” and “hatred”

8. In this part—

“fear” means fear of a group of persons in Northern Ireland defined by reference to religious belief, colour, race, nationality (including citizenship) or ethnic or national origins;

“hatred” means hatred against a group of persons in Northern Ireland defined by reference to religious belief, colour, race, nationality (including citizenship) or ethnic or national origins.

Use of words or behaviour or display of written material

9.—(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 hatred or arouse fear; or

(b) having regard to all the circumstances hatred is likely to be stirred up or fear is likely to be aroused thereby.

(2) An offence under this Article 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) In proceedings for an offence under this Article 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.

(4) A person who is not shown to have intended to stir up hatred or arouse fear is not guilty of an offence under this Article 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.

(5) This Article 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.

Publishing or distributing written material

10.—(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 hatred or arouse fear; or
- (b) having regard to all the circumstances hatred is likely to be stirred up or fear is likely to be aroused thereby.

(2) In proceedings for an offence under this Article it is a defence for an accused who is not shown to have intended to stir up hatred or arouse fear 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.

Distributing, showing or playing a recording

11.—(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 hatred or arouse fear; or
- (b) having regard to all the circumstances hatred is likely to be stirred up or fear is likely to be aroused 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 Article it is a defence for an accused who is not shown to have intended to stir up hatred or arouse fear 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 Article 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.

Broadcasting or including programme in cable programme service

12.—(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 paragraph (2) is guilty of an offence if—

- (a) he intends thereby to stir up hatred or arouse fear; or
- (b) having regard to all the circumstances hatred is likely to be stirred up or fear is likely to be aroused thereby.

(2) The persons are—

- (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 hatred or arouse fear, 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 hatred or arouse fear 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 hatred would be likely to be stirred up or fear would be likely to be aroused.

(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 hatred or arouse fear 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 hatred would be likely to be stirred up or fear would be likely to be aroused.

(6) A person who is not shown to have intended to stir up hatred or arouse fear is not guilty of an offence under this Article if he did not know, and had no reason to suspect, that the offending material was threatening, abusive or insulting.

(7) This Article 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 Article 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 Article 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.

Possession of matter intended or likely to stir up hatred or arouse fear

13.—(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, broadcast 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, broadcast or included in a cable programme service, whether by himself or another, is guilty of an offence if he intends hatred to be stirred up or fear to be aroused thereby or, having regard to all the circumstances, hatred is likely to be stirred up or fear is likely to be aroused thereby.

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

(3) In proceedings for an offence under this Article it is a defence for an accused who is not shown to have intended to stir up hatred or arouse fear 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) This Article does not apply to the possession of written material or a recording by or on behalf of the British Broadcasting Corporation or the Independent Broadcasting Authority or with a view to its being broadcast by either of those authorities.

Supplementary provisions

Powers of entry and search

14.—(1) If a resident magistrate is satisfied on a complaint on oath made by a constable that there are reasonable grounds for suspecting that a person has possession of written material or a recording in contravention of Article 13, the resident magistrate 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 and to seize and remove anything which the constable reasonably suspects to be or include the material or recording.

(2) A constable entering or searching premises in pursuance of a warrant issued under this Article may use reasonable force if necessary.

(3) In this Article “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 Mineral Workings (Offshore Installations) Act 1971; and
- (c) any tent or movable structure.

Savings for reports of parliamentary, Assembly or judicial proceedings

15.—(1) Nothing in this part applies to a fair and accurate report of proceedings in Parliament or in the Assembly.

(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.

Punishment of offences under part III

16.—(1) A person guilty of an offence under this part shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.

(2) For the purposes of the rules against charging more than one offence in the same count or complaint, each of Articles 9 to 13 creates one offence.

Interpretation of part III

17. In this part—

“broadcast” means broadcast by wireless telegraphy (within the meaning of the Wireless Telegraphy Act 1949) for general reception, whether by way of sound broadcasting or television;

“cable programme service” has the same meaning as in the Cable and Broadcasting Act 1984;

“distribute”, and related expressions, shall be construed in accordance with Article 10(3) (written material) and Article 11(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;

“fear” and “hatred” have the meanings assigned to them by Article 8;

“programme” means any item which is broadcast or included in a cable programme service;

“publish”, and related expressions, in relation to written material, shall be construed in accordance with Article 10(3);

“recording” has the meaning given by Article 11(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.