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| | Hate Crime and Public Order (Scotland) Bill | Part 3A Public Order Act 1986 (inserted by Racial and Religious Hatred Act 2006 [voted for by SNP MPs], and subsequently amended) |
| “Abusive” threshold | 3 Offences of stirring up hatred (2) A person commits an offence if— (a) the person— (i) behaves in a threatening or abusive manner, or (ii) communicates threatening or abusive material to another person, and | 29B Use of words or behaviour or display of written material (1) A person who uses threatening words or behaviour, or displays any written material which is threatening, is guilty of an offence... |
| Intention | (b) either— (i) in doing so, the person intends to stir up hatred against a group of persons based on the group being defined by reference to a characteristic mentioned in subsection (3), or (ii) as a result, it is likely that hatred will be stirred up against such a group. | (1) ... if he intends thereby to stir up religious hatred or hatred on the grounds of sexual orientation. |
| Exception for conduct in the home | | (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. (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. |
| Freedom of expression on religion | 11 Protection of freedom of expression: religion (2) Behaviour or material is not to be taken to be threatening or abusive solely on the basis that it involves or includes— (a) discussion or criticism of— (i) religion, whether religions generally or a particular religion, (ii) religious beliefs or practices, (b) proselytising, or (c) urging of persons to cease practising their religions | 29J Protection of freedom of expression Nothing in this Part shall be read or given effect in a way which prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practising their religion or belief system. |
| Freedom of expression on sexual orientation | 12 Protection of freedom of expression: sexual orientation (2) Behaviour or material is not to be taken to be threatening or abusive solely on the basis that it involves or includes— (a) discussion or criticism of sexual conduct or practices, or (b) urging of persons to refrain from or modify sexual conduct or practices. | 29JA Protection of freedom of expression (sexual orientation) (1) In this Part, for the avoidance of doubt, the discussion or criticism of sexual conduct or practices or the urging of persons to refrain from or modify such conduct or practices shall not be taken of itself to be threatening or intended to stir up hatred. (2) In this Part, for the avoidance of doubt, any discussion or criticism of marriage which concerns the sex of the parties to marriage shall not be taken of itself to be threatening or intended to stir up hatred. |
| Senior law officer consent to prosecution | | 29L Procedure and punishment (1) No proceedings for an offence under this Part may be instituted except by or with the consent of the Attorney General. |
| Discussion of trans issues | [Applies to “transgender identity” (see clause 3(3)(e)) and does not include a free speech clause in relation to that protected characteristic.] | [No equivalent offence in England & Wales] |