

Offensive Behaviour at Football and Threatening Communications (Scotland) Bill

Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated during Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

“Hatred” versus “malice and ill-will”

22, 23, 24, 25, 26, 33, 34A, 34B, 37

Notes on amendments in this group

Amendments 33 and 37 are direct alternatives for, respectively, amendments 10 and 12 in the group *Section 5 offence: Condition B: grounds of hatred*

Section 1 offence: supporting terrorism and glorifying events

16

Statutory aggravations not to be applied to section 1 offence

17

Section 1 offence: references to “regulated football match”

1, 3, 7

Notes on amendments in this group

Amendment 7 is pre-empted by amendment 19 in the group *Section 1 offence: places where match is televised*

Section 1 offence: behaviour directed at, or engaged in together with, those attending or travelling to a regulated football match

2, 4, 5, 6, 8

Notes on amendments in this group

Amendments 5 and 6 are pre-empted by amendment 19 in the group *Section 1 offence: places where match is televised*

Amendment 8 is pre-empted by amendment 20 in the next group

Section 1 offence: those on a journey to or from a match

18, 4A, 20

Notes on amendments in this group

Amendment 20 pre-empts amendment 8 in the previous group

Section 1 offence: places where match is televised

19, 21, 27

Notes on amendments in this group

Amendment 19 pre-empts amendment 7 in the group *Section 1 offence: references to “regulated football match”* and amendments 5 and 6 in the group *Section 1 offence: behaviour directed at, or engaged in together with, those attending or travelling to a regulated football match*

Amendment 21 pre-empts amendment 27

Power to modify sections 1 and 4

9

Section 5 offence: Condition A: fear or alarm test

28, 29, 31

Notes on amendments in this group

Amendment 31 is pre-empted by amendment 30 in the next group

Section 5 offence: Condition A: recklessness test

30

Notes on amendments in this group

Amendment 30 pre-empts amendment 31 in the previous group

Section 5 offence: Condition B: grounds of hatred

32, 10, 34, 36, 12, 38, 39, 13

Notes on amendments in this group

Amendments 10 and 12 are direct alternatives for, respectively, amendments 33 and 37 in the group *“Hatred” versus “malice and ill-will”*

Section 5 offence: Condition A: defence of artistic performance

35

Protection of freedom of expression

11, 11A

Review of operation of offences

14, 14A, 14B

Commencement

15

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Amendments in debating order

“Hatred” versus “malice and ill-will”

Patrick Harvie

- 22 In section 1, page 1, line 11, leave out <hatred of, or stirring up hatred against> and insert <, or stirring up, malice and ill-will towards>

Patrick Harvie

- 23 In section 1, page 1, line 16, leave out <hatred of, or stirring up hatred against> and insert <, or stirring up, malice and ill-will towards>

Patrick Harvie

- 24 In section 1, page 1, line 19, leave out <hatred of> and insert <malice and ill-will towards>

Patrick Harvie

- 25 In section 1, page 1, line 23, leave out <hatred is> and insert <malice and ill-will are>

Patrick Harvie

- 26 In section 4, page 3, line 23, leave out <hatred> and insert <malice and ill-will>

Patrick Harvie

- 33 In section 5, page 4, line 29, leave out <religious hatred> and insert <malice and ill-will on religious grounds>

Patrick Harvie

- 34A As an amendment to amendment 34, line 2, leave out <hatred against> and insert <malice and ill-will towards>

Patrick Harvie

- 34B As an amendment to amendment 34, line 5, leave out <hatred against> and insert <malice and ill-will towards>

Patrick Harvie

- 37 In section 6, page 5, line 3, leave out <“Religious hatred” means hatred against> and insert <“Malice and ill-will on religious grounds” means malice and ill-will towards>

Section 1 offence: supporting terrorism and glorifying events

David McLetchie

- 16 In section 1, page 1, leave out line 22 and insert—
- <() expressing support for an organisation listed in Schedule 2 to the Terrorism Act 2000 (c.11), or
 - () glorifying or celebrating events involving the loss of life or serious injury.>

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Statutory aggravations not to be applied to section 1 offence

David McLetchie

17 In section 1, page 2, line 17, at end insert—

<() It may not be libelled in an indictment or specified in a complaint that an offence under subsection (1) is—

- (a) racially aggravated under section 96 of the Crime and Disorder Act 1998 (c.37),
- (b) aggravated by religious prejudice under section 74 of the Criminal Justice (Scotland) Act 2003 (asp 7), or
- (c) aggravated by prejudice relating to disability, sexual orientation or transgender identity under the Offences (Aggravation by Prejudice) (Scotland) Act 2009 (asp 8).>

Section 1 offence: references to “regulated football match”

Roseanna Cunningham

1 In section 2, page 2, line 24, after <a> insert <regulated>

Roseanna Cunningham

3 In section 2, page 2, line 33, after <the> insert <regulated football>

Roseanna Cunningham

7 In section 2, page 2, line 38, after <the> insert <regulated football>

Section 1 offence: behaviour directed at, or engaged in together with, those attending or travelling to a regulated football match

Roseanna Cunningham

2 In section 2, page 2, line 29, after <if> insert <—

(aa)>

Roseanna Cunningham

4 In section 2, page 2, line 34, at end insert <, or

(ab) it is directed towards, or is engaged in together with, another person who is—

- (i) in the ground where the regulated football match is being held on the day on which it is being held,
- 5 (ii) entering or leaving (or trying to enter or leave) the ground where the regulated football match is being held, or
- (iii) on a journey to or from the regulated football match.>

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Roseanna Cunningham

- 5 In section 2, page 2, line 35, leave out <(2)(a) to (c)> and insert <(2)(aa) and (ab)>

Roseanna Cunningham

- 6 In section 2, page 2, line 37, leave out <(2)(a) and (b)> and insert <(2)(aa) and (ab)>

Roseanna Cunningham

- 8 In section 2, page 2, line 39, leave out <(2)(c)> and insert <(2)(aa) and (ab)>

Section 1 offence: those on a journey to or from a match

David McLetchie

- 18 In section 2, page 2, line 33, leave out from <or> to end of line 34

David McLetchie

- 4A As an amendment to amendment 4, line 6, leave out from <or> to end of line 7

David McLetchie

- 20 In section 2, page 2, line 39, leave out subsection (4)

Section 1 offence: places where match is televised

David McLetchie

- 19 In section 2, page 2, line 35, leave out subsection (3)

David McLetchie

- 21 In section 4, page 3, line 37, leave out subsection (4)

Patrick Harvie

- 27 In section 4, page 3, line 38, leave out from <whether> to end of line and insert <by means of the broadcast transmission of pictures>

Power to modify sections 1 and 4

Roseanna Cunningham

- 9 After section 4, insert—

<Power to modify sections 1 and 4

- (1) The Scottish Ministers may by order—
(a) modify section 1 so as to—

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- (i) add or remove a description of behaviour to or from those for the time being listed in subsection (2) of that section,
 - (ii) vary the description of a behaviour for the time being listed in that subsection,
 - (iii) add or remove a thing to or from those for the time being listed in subsection (4) of that section,
 - (iv) vary the description of a thing for the time being listed in that subsection,
- (b) modify section 4 so as to—
- (i) add or remove a definition to or from those for the time being mentioned in subsection (2) or (3) of that section,
 - (ii) vary a definition for the time being mentioned in either of those subsections.
- (2) An order under subsection (1)—
- (a) may make such consequential, transitional, transitory or saving provision as the Scottish Ministers consider appropriate,
 - (b) may, for the purpose of making consequential provision under paragraph (a), modify this Act,
 - (c) is subject to the affirmative procedure.>

Section 5 offence: Condition A: fear or alarm test

Patrick Harvie

- 28** In section 5, page 4, line 11, leave out <suffer fear or alarm,> and insert <believe that the threatened or incited act, given the circumstances, was likely to be carried out>

Patrick Harvie

- 29** In section 5, page 4, line 13, leave out <fear or alarm> and insert <a reasonable person to believe that the threatened or incited act, given the circumstances, was likely to be carried out>

Patrick Harvie

- 31** In section 5, page 4, line 15, leave out <fear or alarm> and insert <a reasonable person to believe that the threatened or incited act, given the circumstances, was likely to be carried out>

Section 5 offence: Condition A: recklessness test

Patrick Harvie

- 30** In section 5, page 4, leave out lines 14 and 15

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Section 5 offence: Condition B: grounds of hatred

Patrick Harvie

- 32 In section 5, page 4, line 29, after <up> insert <—
(i)>

Roseanna Cunningham

- 10 In section 5, page 4, line 29, leave out <religious hatred> and insert <hatred on religious grounds>

Patrick Harvie

- 34 In section 5, page 4, line 29, at end insert—
- <(ii) hatred against a group of persons based on their membership (or presumed membership) of a group defined by reference to a thing mentioned in subsection (5A),
 - (iii) hatred against an individual based on the individual’s membership (or presumed membership) of a group defined by reference to a thing mentioned in subsection (5A).

(5A) The things referred to in subsection (5)(b)(ii) and (iii) are—

- (a) colour,
- (b) race,
- (c) nationality (including citizenship),
- (d) ethnic or national origins,
- (e) sexual orientation,
- (f) transgender identity,
- (g) disability.>

Patrick Harvie

- 36 In section 6, page 4, line 40, at end insert—
- <() “Disability” means physical or mental impairment of any kind.>

Roseanna Cunningham

- 12 In section 6, page 5, line 3, leave out <“Religious hatred”> and insert <“Hatred on religious grounds”>

Patrick Harvie

- 38 In section 6, page 5, line 9, at end insert—
- <() “Transgender identity” means any of the following—
- (a) transvestism,
 - (b) transsexualism,
 - (c) intersexuality,
 - (d) having, by virtue of the Gender Recognition Act 2004 (c.7), changed gender,

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- (e) any other gender identity that is not standard male or female gender identity.>

Patrick Harvie

- 39 In section 6, page 5, line 12, after <(4)> insert <and section 5(5)(b)>

Roseanna Cunningham

- 13 After section 6, insert—

<Power to modify sections 5(5)(b) and 6

- (1) The Scottish Ministers may by order—
- (a) modify section 5(5)(b) so as to—
 - (i) add or remove a ground of hatred to or from those for the time being mentioned in that section,
 - (ii) vary a ground of hatred for the time being mentioned in that section,
 - (b) modify section 6 so as to—
 - (i) add or remove a definition to or from those for the time being mentioned in that section in consequence of a modification made under paragraph (a),
 - (ii) vary a definition that relates to a ground of hatred for the time being mentioned in section 5(5)(b).
- (2) An order under subsection (1) may—
- (a) specify grounds of hatred by reference to hatred against groups of persons, or individuals, of specified descriptions,
 - (b) specify such descriptions by reference to specified personal characteristics,
 - (c) in relation to any ground added by the order, modify this Act so as to make such provision for the same or similar purposes as that in section (*Protection of freedom of expression*) as the Scottish Ministers consider necessary or appropriate,
 - (d) remove or vary any provision made under paragraph (c).
- (3) An order under subsection (1)—
- (a) may make such consequential, transitional, transitory or saving provision as the Scottish Ministers consider appropriate,
 - (b) may, for the purpose of making consequential provision under paragraph (a), modify this Act,
 - (c) is subject to the affirmative procedure.>

Section 5 offence: Condition A: defence of artistic performance

Patrick Harvie

- 35 In section 5, page 4, line 31, at end insert—

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<() It is a defence for a person charged with an offence under subsection (1) by virtue of Condition A being satisfied to show that communication of the material took place in the course of a theatrical or other artistic performance or a rehearsal for such a performance.>

Protection of freedom of expression

Roseanna Cunningham

11 After section 5, insert—

<Protection of freedom of expression

(1) For the avoidance of doubt, nothing in section 5(5) prohibits or restricts—

- 5
- (a) discussion or criticism of religions or the beliefs or practices of adherents of religions,
 - (b) expressions of antipathy, dislike, ridicule, insult or abuse towards those matters,
 - (c) proselytising, or
 - (d) urging of adherents of religions to cease practising their religions.

(2) In subsection (1), “religions” includes—

- 10
- (a) religions generally,
 - (b) particular religions,
 - (c) other belief systems.>

Patrick Harvie

11A As an amendment to amendment 11, line 3, leave out <section 5(5)> and insert <this Act>

Review of operation of offences

Roseanna Cunningham

14 After section 7, insert—

<Report on operation of offences

(1) The Scottish Ministers must lay before the Scottish Parliament—

- 5
- (a) a report on the operation of the offence in section 1(1) during the review period, and
 - (b) a report on the operation of the offence in section 5(1) during the review period.

(2) A report under subsection (1) must be so laid no later than 12 months after the end of the review period.

(3) In subsections (1) and (2), “the review period” means the period—

- 10
- (a) beginning on the relevant day, and
 - (b) ending 2 years after the 1 August next occurring after the relevant day.

(4) In subsection (3), “the relevant day” means—

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- 15 (a) in relation to a report under subsection (1)(a), the day on which section 1 comes into force,
- (b) in relation to a report under subsection (1)(b), the day on which section 5 comes into force.>

David McLetchie

14A As an amendment to amendment 14, line 6, at end insert—

<(1A) A report under subsection (1) must in particular—

- (a) set out the objectives intended to be achieved by this Act,
- (b) assess the extent to which those objectives have been achieved during the review period,
- (c) assess whether and to what extent those objectives remain appropriate,
- (d) set out conclusions.>

David McLetchie

14B As an amendment to amendment 14, line 9, after <(1)> insert <, (1A)>

Commencement

Roseanna Cunningham

15 Leave out section 8 and insert—

<Commencement

- (1) This section and section 9 come into force on the day of Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.>