

## **Hate Crime and Public Order (Scotland) Bill**

### **Amendments to be moved at Stage 3**

#### **List of amendments**

Section 2, Page 2, line 21, leave out <and> to end line 21

Section 6, Page 6, line 11, at end insert

< () where the conversion or production of such material is required, a constable or a member of police staff will require to act reasonably with regard to time permitted for such conversion or production to take place and the form in which such conversion or production of material is to take. Any costs incurred in connection with the conversion or production of such material will be borne by those instructing a constable or member of police staff to seize or detain such material.>

Section 15, Page 10 at end line 33 insert

#### **<() Duty of Scottish Ministers to raise awareness**

(1) The Scottish Ministers must, after consultation with such persons as they think appropriate and no later than 9 months after Royal Assent, publish a plan outlining the steps to be taken in developing and delivering a public campaign to raise awareness of sections 1-3 of the Act.

(2) The public campaign must –

(1) promote public awareness and understanding of sections 1-3 of the Act

(2) ensure that policy areas of education, training, sport and employment are specially included

(3) engage and involve community groups and groups representing people with the characteristics in section 1 (2) of the Act

(4) include a tracker system to monitor how the plan will be implemented.

(3) The Scottish Ministers must provide a report to the Parliament within three years of the Royal Assent to include information on how the public campaign has been delivered

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Effect

The amendment removes the requirement to state how the sentence is different from that which the court would have imposed if the offence were not aggravated, the extent of and the reasons for that difference or the reasons for there being no difference.

Reason

Lord Bracadale in the “Independent Review of Hate Crime Legislation in Scotland” recommended that this practice should be discontinued since it complicated the sentencing process.

This practice may give rise to potential appeals and to a perception of, if not actual, inconsistencies in sentencing where victims may feel aggrieved if they felt that the sentence did not properly reflect the aggravation.

Understanding sentencing in relation to offending behaviour is crucial in preventing hate crimes. The factors involved in sentencing are complex and relate partly to deterrence by sending out a message to those who have offended and public denunciation of the offending behaviour to those who have been the victims. Consistency of sentencing across Scotland is vital. This role is best achieved by Scottish Sentencing Council (in ensuring that a balance is maintained between freedom of expression and other human rights).

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Section 6, Page 6, line 11, at end insert

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#### Effect

The amendment ensures the reasonable exercise of the powers under section 6(3) of the Bill that require the conversion or production of material being seized for the constable or officer member of police staff.

#### Reason

Section 6(3) of the Bill is very wide where material being seized is only “capable of being looked at, read, watched or listened to (as the case may be) after conversion from data stored in another form, require that the material (a) be converted into such a form in a way which enables it to be taken away, or (b) be produced in a form which is capable of being taken away and from which it can be readily converted.”

The amendment to act reasonably is appropriate to ensure that such conversion or production is afforded time for those requiring to convert or to produce such material and in relation to the form that the conversion or production is to take. Costs if any too should be borne by Police Scotland or those instructing the search.

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- (1) The Scottish Ministers must, after consultation with such persons as they think appropriate and no later than 9 months after Royal Assent, publish a plan outlining the steps to be taken in developing and delivering a public campaign to raise awareness of sections 1-3 of the Act.
- (2) The public campaign must –
  - (1) promote public awareness and understanding of sections 1-3 of the Act
  - (2) ensure that policy areas of education, training, sport and employment are specially included
  - (3) engage and involve community groups and groups representing people with the characteristics in section 1 (2) of the Act
  - (4) include a tracker system to monitor how the plan will be implemented.
- (3) The Scottish Ministers must provide a report to the Parliament within three years of the Royal Assent to include information on how the public campaign has been delivered

#### Effect

The amendment ensures that there is a requirement for Scottish Ministers to publish a plan regarding how they intend to promote awareness of the Bill and its measures. There are specific requirements with regard to the education training sport and employment and the involvement of the groups who are included in section 1(2) as the relevant characteristics.

#### Reason

The Bill's message is clear that hate crime is not to be tolerated or acceptable for individuals in Scottish society. That is crucial to Scotland as a fair and just society requiring that the Scottish criminal justice system works effectively so "victims of crime [should be] confident that the criminal justice system will act fairly, effectively and will help to reduce the risk of further victimisation." The Bill alone will not get rid of prejudice.

We have highlighted that alongside the Bill if passed there must be a programme of raising awareness and education for all. It is about culture which needs to start at school level and within the GIRFEC (Getting it Right For Every Child) curriculum and embedded specifically within a range of policy areas.

This is such an important aspect that we consider that there should be specific requirements on the Scottish Government to produce a clear plan to set out how they intend to raise awareness and also to engage with communities which will be key to understanding and implementing the Bill. Its success is integrally interconnected with that necessary awareness raising and education programme.