

**CRIMINAL CODE AMENDMENT
(RACIST HARASSMENT AND
INCITEMENT TO
RACIAL HATRED) ACT**

No. 33 of 1990

AN ACT to amend *The Criminal Code* to create offences relating to racist harassment and incitement to racial hatred and for connected purposes.

[Assented to 9 October, 1990]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Criminal Code Amendment (Racist harassment and incitement to racial hatred) Act 1990*.

The Code

2. In this Act “the Code” means *The Criminal Code**.

[*Reprinted as approved 13 December 1983 as the Schedule to the Criminal Code Act 1913 appearing in Appendix B to the Criminal Code Act Compilation Act 1913, and amended by Acts Nos. 87 of 1982, 13, 52 and 121 of 1984, 14, 74 and 119 of 1985, 89 of 1986 and 47, 74, 106 and 129 of 1987, 70 of 1988 and 32 of 1989.]

Chapter XI inserted

3. After section 75 of the Code the following chapter is inserted—

“ **CHAPTER XI—RACIST HARASSMENT AND
INCITEMENT TO RACIAL HATRED**

Definitions

76. In this chapter—

“display” means display in or within view of a public place;

“distribute” means distribute to the public or a section of the public;

“publish” means publish to the public or a section of the public;

“racial group” means any group of persons defined by reference to race, colour or ethnic or national origins;

“written or pictorial material” means any poster, graffiti, sign, placard, newspaper, leaflet, handbill, writing, inscription, picture, drawing or other visible representation.

**Possession of material for publication,
etc., to incite racial hatred**

77. Any person who—

- (a) possesses written or pictorial material that is threatening or abusive; and
- (b) intends the material to be published, distributed or displayed whether by that person or another person; and
- (c) intends hatred of any racial group to be created, promoted or increased by the publication, distribution or display of the material,

is guilty of a crime and is liable to imprisonment for 2 years.

Summary conviction penalty: Imprisonment for 6 months
or a fine of \$2 000.

**Publication, etc., of material
to incite racial hatred**

78. Any person who—

- (a) publishes, distributes or displays written or pictorial material that is threatening or abusive; and
- (b) intends hatred of any racial group to be created, promoted or increased by the publication, distribution or display of the material,

is guilty of a crime and is liable to imprisonment for 2 years.

Summary conviction penalty: Imprisonment for 6 months
or a fine of \$2 000.

**Possession of material for display
to harass a racial group**

79. If—

- (a) any person possesses written or pictorial material that is threatening or abusive; and
- (b) that person intends the material to be displayed whether by that person or another person; and
- (c) that person intends any racial group to be harassed by the display of the material,

that person is guilty of a crime and is liable to imprisonment for one year.

Summary conviction penalty: Imprisonment for 3 months or a fine of \$1 000.

**Display of material to
harass a racial group**

80. If—

- (a) any person displays written or pictorial material that is threatening or abusive; and
- (b) that person intends any racial group to be harassed by the display of the material,

that person is guilty of a crime and is liable to imprisonment for one year.

Summary conviction penalty: Imprisonment for 3 months or a fine of \$1 000.

Section 597A inserted

4. After section 597 of the Code the following section is inserted—

**Charge relating to incitement to
racial hatred and like offences**

“ **597A.** (1) Upon an indictment charging a person with an offence under section 77 or 78 the person may be convicted of an offence under the other of those sections or under section 79 or 80.

(2) Upon an indictment charging a person with an offence under section 79 or 80 the person may be convicted of an offence under the other of those sections. ”.
