



# Defamation and Malicious Publication (Scotland) Act 2021

2021 asp 10

## DEFAMATION AND MALICIOUS PUBLICATION (SCOTLAND) ACT 2021

### PART 1

#### DEFAMATION

##### *Actionability and restrictions on bringing proceedings*

- 1 Actionability of defamatory statements
- 2 Prohibition on public authorities bringing proceedings
- 3 Restriction on proceedings against secondary publishers
- 4 Power to specify persons to be treated as publishers

##### *Defences*

- 5 Defence of truth
- 6 Defence of publication on a matter of public interest
- 7 Defence of honest opinion
- 8 Abolition of common law defences and transitional provision

##### *Absolute privilege*

- 9 Contemporaneous reports of court proceedings

##### *Qualified privilege*

- 10 Peer-reviewed statement in scientific or academic journal etc.
- 11 Other statements protected by qualified privilege
- 12 Privilege: transitional provision

##### *Offers to make amends*

- 13 Offer to make amends

*Changes to legislation:* There are currently no known outstanding effects for the Defamation and Malicious Publication (Scotland) Act 2021. (See end of Document for details)

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- 14 Acceptance and enforcement of offer to make amends
- 15 Offer to make amends: multiple persons responsible for statement
- 16 Rejection of unqualified offer to make amends
- 17 Rejection of qualified offer to make amends
- 18 Offers to make amends: transitional provision

#### *Jurisdiction*

- 19 Actions against a person not domiciled in the UK

#### *Removal of presumption that proceedings are to be tried by jury*

- 20 Removal of presumption that proceedings are to be tried by jury

### **PART 2**

#### MALICIOUS PUBLICATION

#### *Actionable types of malicious publication*

- 21 Statements causing harm to business interests
- 22 Statements causing doubt as to title to property
- 23 Statements criticising assets

#### *General provision*

- 24 Limit on requirement to show financial loss
- 25 Statements conveying two or more meanings
- 26 Damages for anxiety and distress

#### *Abolition of common law verbal injuries*

- 27 Abolition of common law verbal injuries

### **PART 3**

#### GENERAL

#### *Remedies*

- 28 Power of court to order a summary of its judgment to be published
- 29 Making a statement in open court
- 30 Power of court to order display of notice of proceedings, removal of a statement etc.
- 31 Remedies: transitional provision

#### *Limitation*

- 32 Limitation of actions
- 33 Interruption of limitation period: mediation
- 34 Interruption of limitation period: media complaints and expert determination

#### *Miscellaneous*

- 35 Consequential modifications
- 36 Interpretation
- 37 Regulations
- 38 Ancillary provision

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- 39 Commencement
- 40 Short title

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SCHEDULE — Statements having qualified privilege  
PART 1 — STATEMENTS HAVING QUALIFIED PRIVILEGE WITHOUT BEING  
SUBJECT TO EXPLANATION OR CONTRADICTION

*Reports of legislative proceedings*

- 1 A fair and accurate report of proceedings in public of...

*Legislature and government documents*

- 2 A fair and accurate copy of or extract from matter...

*Reports of court and inquiry proceedings*

- 3 A fair and accurate report of proceedings in public before...
- 4 A fair and accurate report of proceedings in public of...

*Court notices, advertisements etc.*

- 5 A notice or advertisement published by or on the authority...

*Public registers and documents*

- 6 A fair and accurate copy of or extract from any...

*International organisations and conferences*

- 7 A fair and accurate report of proceedings in public anywhere...
- 8 A fair and accurate copy of or extract from matter...

PART 2 — STATEMENTS HAVING QUALIFIED PRIVILEGE SUBJECT TO  
EXPLANATION OR CONTRADICTION

*Notices etc. issued by legislatures, governments,  
certain authorities, international organisations etc.*

- 9 (1) A fair and accurate copy of, extract from or...

*Documents released by courts, judges and court officers*

- 10 A fair and accurate copy of, extract from or summary...

*Reports of proceedings of local government,  
committees, commissions, inquiries, tribunals etc.*

- 11 (1) A fair and accurate report of proceedings at any...

*Reports of press conferences on matters of public interest*

- 12 A fair and accurate report of proceedings at a press...

*Reports of public meetings on matters of public interest*

- 13 (1) A fair and accurate report of proceedings at any...

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*Listed companies: reports of meetings and certain other documents*

- 14 (1) A fair and accurate report of proceedings at a...

*Findings or decisions of certain associations*

- 15 (1) A fair and accurate report of any finding or...

*Reports of scientific and academic conferences and associated documents*

- 16 A fair and accurate— (a) report of proceedings of a...

*Reports and summaries etc. by Scottish Ministers' designees*

- 17 (1) A fair and accurate report or summary of, copy...

PART 3 — SUPPLEMENTARY PROVISION

*Interpretation*

- 18 In this schedule— “court” includes— any tribunal or body established...

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