

These notes relate to the Defamation and Malicious Publication (Scotland) Act 2021 (asp 10) which received Royal Assent on 21 April 2021

DEFAMATION AND MALICIOUS PUBLICATION (SCOTLAND) ACT 2021

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Malicious publication

General provision

Section 25: Statements conveying two or more meanings

122. The effect of section 25 is to exclude the application of the single meaning rule from proceedings brought under Part 2. The effect of that rule, in relation to defamation proceedings, is to provide a mechanism to allow the judge or jury at a proof or trial to determine which of the meanings that may be attributed to a statement is the true meaning to be attributed to the statement in all the circumstances of a case. It is that meaning, and that meaning only, which will be considered from the point of view of determining whether the statement has been defamatory of the pursuer as a matter of fact.
123. Subsection (2) of section 25 provides that, where proceedings are brought under Part 2 in respect of a statement that is capable of conveying two or more distinct meanings, it will not be necessary, in deciding whether harm has occurred, for the court to determine either which of the meanings is conveyed by the statement in the circumstances or that one meaning should be preferred to the exclusion of all others. Subsection (3) clarifies that nothing in this section prevents the court from excluding or disregarding possible meanings where it considers it appropriate.