

*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**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 2: Malicious publication**

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

##### *Section 27: Abolition of common law verbal injuries*

125. Section 27 provides for all rules of law governing the right to bring proceedings in respect of the forms of verbal injury which exist at present in Scots common law to cease to have effect. This includes rules governing convicium, a delict which involves the disclosure of a false, or true, statement with the intention of exposing the person who is its subject to public hatred, ridicule or contempt. Reading this section in conjunction with sections 21 to 23, as described above, providing for statutory equivalents of forms of verbal injury relating to economic interests only, the result is that all forms of verbal injury relating solely to injury to a natural person's feelings are abolished outright in terms of the Act. The same is true of slander on a third party, relating to claims for loss, at least partly of a financial nature, arising from a defamatory attack on a third party.
126. Subsection (2) is a transitional provision which makes clear that the abolition of the rules relating to common law verbal injuries in terms of subsection (1) does not affect any right to bring proceedings which arises before subsection (1) comes into force.