



Defamation and Malicious Publication (Scotland) Act 2021

2021 asp 10

PART 1

DEFAMATION

Qualified privilege

10 Peer-reviewed statement in scientific or academic journal etc.

- (1) The publication of a statement in a scientific or academic journal is privileged if the conditions in subsections (2) and (3) are met.
- (2) The first condition is that the statement relates to a scientific or academic matter.
- (3) The second condition is that before the statement was published an independent review of the statement's scientific or academic merit was carried out by—
 - (a) the editor of the journal, and
 - (b) one or more persons with expertise in the scientific or academic matter concerned.
- (4) Where the publication of a statement in a scientific or academic journal is privileged by virtue of subsection (1), the publication in the same journal of any assessment of the statement's scientific or academic merit is also privileged if—
 - (a) the assessment was written by one or more of the persons who carried out the independent review of the statement, and
 - (b) the assessment was written in the course of that review.
- (5) Where the publication of a statement or assessment is privileged by virtue of this section, the publication of a fair and accurate copy of, extract from or summary of the statement or assessment is also privileged.
- (6) The publication of a statement is not privileged by virtue of this section if it is shown to have been made with malice.
- (7) Nothing in this section is to be construed as—

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

- (a) protecting the publication of matter the publication of which is prohibited by law, or
 - (b) limiting any privilege subsisting apart from this section.
- (8) The reference in subsection (3) (a) to “the editor of the journal” is to be read, in the case of a journal with more than one editor, as a reference to the editor or editors who were responsible for deciding to publish the statement concerned.

Commencement Information

II [S. 10](#) in force at 8.8.2022 by [S.S.I. 2022/154](#), [regs. 1\(2\), 2](#)

11 Other statements protected by qualified privilege

- (1) Other than as provided in this section, the publication of any statement mentioned in the schedule (however described) is privileged.
- (2) The publication of a statement is not privileged by virtue of this section if it is shown to have been made with malice.
- (3) Subsection (4) applies to defamation proceedings brought in respect of the publication of a statement mentioned in Part 2 of the schedule.
- (4) If the pursuer shows that the defender—
 - (a) was requested by the pursuer to publish, in a suitable manner, a reasonable statement by way of explanation or contradiction, and
 - (b) refused or neglected to do so,
 the publication of the statement complained of is not privileged by virtue of this section.
- (5) For the purpose of subsection (4) (a), “in a suitable manner” means—
 - (a) in the same manner as the statement complained of, or
 - (b) in a manner that is adequate and reasonable in the circumstances.
- (6) This section does not apply to the publication of matter which is not of public interest and the publication of which is not for the public benefit.
- (7) Nothing in this section is to be construed as—
 - (a) protecting the publication of matter the publication of which is prohibited by law, or
 - (b) limiting any privilege subsisting apart from this section.

Commencement Information

I2 [S. 11](#) in force at 8.8.2022 by [S.S.I. 2022/154](#), [regs. 1\(2\), 2](#)

12 Privilege: transitional provision

Nothing in sections 9 to 11 (or the schedule) has effect in relation to defamation proceedings if the right to bring the proceedings accrued before the commencement of the section in question.

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

Commencement Information

I3 [S. 12](#) in force at 8.8.2022 by [S.S.I. 2022/154](#), **regs. 1(2), 2**

Changes to legislation:

There are currently no known outstanding effects for the Defamation and Malicious Publication (Scotland) Act 2021, Cross Heading: Qualified privilege.