



Defamation and Malicious Publication (Scotland) Act 2021

2021 asp 10

PART 2

MALICIOUS PUBLICATION

Actionable types of malicious publication

21 Statements causing harm to business interests

- (1) A person (B) may bring proceedings under this section against another person (A) where—
- (a) A has—
 - (i) made a false and malicious statement about B’s business or business activities, and
 - (ii) published the statement to a person other than B, and
 - (b) the statement has caused (or is likely to cause) financial loss to B.
- (2) For the purposes of [subsection \(1\)\(a\)\(i\)](#), a statement is malicious only if B shows—
- (a) that the imputation conveyed by the statement complained of was presented as being a statement of fact (rather than a statement of opinion) and was sufficiently credible so as to mislead a reasonable person, and
 - (b) both—
 - (i) that A knew that the imputation was false or was recklessly indifferent as to the truth of the imputation, and
 - (ii) that A’s publication of the statement was motivated by a malicious intention to cause harm to B’s business or business activities.

22 Statements causing doubt as to title to property

- (1) A person (B) may bring proceedings under this section against another person (A) where—
- (a) A has—

Status: This is the original version (as it was originally enacted).

- (i) made a false and malicious statement about B’s title to land or other property, and
 - (ii) published the statement to a person other than B, and
 - (b) the statement has caused (or is likely to cause) financial loss to B.
- (2) For the purposes of [subsection \(1\)\(a\)\(i\)](#), a statement is malicious only if B shows—
 - (a) that the imputation conveyed by the statement complained of was presented as being a statement of fact (rather than a statement of opinion) and was sufficiently credible so as to mislead a reasonable person, and
 - (b) both—
 - (i) that A knew that the imputation was false or was recklessly indifferent as to the truth of the imputation, and
 - (ii) that A’s publication of the statement was motivated by a malicious intention to delay or jeopardise a transaction involving the land or other property of B.

23 Statements criticising assets

- (1) A person (B) may bring proceedings under this section against another person (A) where—
 - (a) A has—
 - (i) made a false and malicious statement criticising or denigrating the quality, condition, use or treatment of assets owned, possessed or controlled by B, and
 - (ii) published the statement to a person other than B, and
 - (b) the statement has caused (or is likely to cause) financial loss to B.
- (2) For the purposes of [subsection \(1\)\(a\)\(i\)](#), a statement is malicious only if B shows—
 - (a) that the false imputation conveyed by the statement complained of was presented as being a statement of fact (rather than a statement of opinion) and was sufficiently credible so as to mislead a reasonable person, and
 - (b) both—
 - (i) that A knew that the imputation was false or was recklessly indifferent as to the truth of the imputation, and
 - (ii) that A’s publication of the statement was motivated by a malicious intention to cause B financial loss.