



Defamation and Malicious Publication (Scotland) Act 2021

2021 asp 10

PART 3

GENERAL

Miscellaneous

35 Consequential modifications

- (1) The Defamation Act 1952 is amended as follows—
 - (a) sections 3, 5, 6 and paragraph (b) of section 14 are repealed,
 - (b) in section 14 (application of Act to Scotland), in paragraph (d)—
 - (i) after “pursuer” insert “and”,
 - (ii) the words from “for” where it second occurs, to the end are repealed.
- (2) The Rehabilitation of Offenders Act 1974 is amended as follows—
 - (a) in section 8(6) (defamation actions: reports of court proceedings), after “1996” insert “, section 9 of the Defamation and Malicious Publication (Scotland) Act 2021”,
 - (b) in section 8(8) (defamation actions)—
 - (i) after paragraph (b), the word “and” is repealed,
 - (ii) for paragraph (c) substitute—
 - “(c) for references to a defence under section 2 of the Defamation Act 2013 there is substituted a reference to a defence under section 5 of the Defamation and Malicious Publication (Scotland) Act 2021, and
 - (d) for the reference to a defence under section 3 of the Defamation Act 2013 there is substituted a reference to a defence under section 7 of the Defamation and Malicious Publication (Scotland) Act 2021.”.
- (3) The Defamation Act 1996 is amended as follows—
 - (a) sections 1 to 4, 14, 15, 17(2) and schedule 1 are repealed,

- (b) in section 18(2) (provisions extending to Scotland)—
 - (i) the words “section 1 (responsibility for publication),” are repealed,
 - (ii) the words “sections 2 to 4 (offer to make amends), except section 3(8),” are repealed,
 - (iii) the words “section 14 and 15 and Schedule 1 (statutory privilege)” are repealed.
- (4) The Defamation Act 2013 is amended as follows—
 - (a) sections 6, 7(9), 15 and 16(5) are repealed,
 - (b) in section 17 (short title, extent and commencement)—
 - (i) in subsection (2), the words “Subject to subsection (3),” are repealed,
 - (ii) subsections (3) and (5) are repealed,
 - (iii) in subsection (4), for “subsections (5) and” substitute “subsection”.

36 Interpretation

In this Act, unless the context otherwise requires—

- (a) “publish” (and cognate expressions), in relation to a statement, are to be construed in accordance with section 1,
- (b) “statement” means words, pictures, visual images, gestures or any other method of signifying meaning,
- (c) a reference to proceedings brought under [Part 2](#) is a reference to proceedings brought under section 21, 22 or 23,
- (d) in relation to proceedings generally, a reference to—
 - (i) a pursuer includes a petitioner,
 - (ii) a defender includes a respondent,
 - (iii) defences includes answers.

37 Regulations

- (1) Any power conferred by this Act on the Scottish Ministers to make regulations includes the power to make—
 - (a) such incidental, supplementary, consequential, transitional, transitory or saving provision as the Scottish Ministers consider appropriate,
 - (b) different provision for different purposes.
- (2) This section does not apply to regulations made under section 38 or 39.

38 Ancillary provision

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to this Act.
- (2) Regulations under this section may—
 - (a) modify any enactment (including this Act),
 - (b) make different provision for different purposes.
- (3) Regulations under this section which contain provision adding to, replacing or omitting any part of the text of an Act are subject to the affirmative procedure.

- (4) Otherwise, regulations under this section are subject to the negative procedure.

39 Commencement

- (1) This section and sections 36 to 38 and 40 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Regulations under this section may—
- (a) include transitional, transitory, or saving provision,
 - (b) make different provision for different purposes.
- (4) Regulations under this section which bring section 32 into force may amend section 18A of the Prescription and Limitation (Scotland) Act 1973 so that, instead of referring to the day on which section 32 comes into force, it specifies the date on which section 32 actually comes into force.

40 Short title

The short title of this Act is the Defamation and Malicious Publication (Scotland) Act 2021.