



# Defamation and Malicious Publication (Scotland) Act 2021

2021 asp 10

## PART 1

### DEFAMATION

#### *Offers to make amends*

#### **14 Acceptance and enforcement of offer to make amends**

- (1) This section applies where a person (B) accepts an offer to make amends made under section 13.
- (2) B may not bring or continue defamation proceedings against the person who made the offer (A) in respect of—
  - (a) in the case of a qualified offer, the specific defamatory meaning set out in the offer, or
  - (b) in any other case, the statement,but may enforce the offer in accordance with this section.
- (3) If A and B agree on the steps to be taken in fulfilment of the offer, B may apply to the court for an order requiring A to take the agreed steps.
- (4) If A and B do not agree on the steps to be taken by way of correction, apology and publication, A may take such steps as A considers appropriate, and may in particular—
  - (a) make the correction and apology in open court in terms approved by the court, and
  - (b) give an undertaking to the court as to the manner in which A will publish the correction and apology.
- (5) If A and B do not agree on the amount to be paid by way of compensation, the court must determine the appropriate amount on the same principles as damages in defamation proceedings.

- (6) In determining the appropriate amount to be paid under [subsection \(5\)](#), the court must take account of—
- (a) any steps taken in fulfilment of the offer, and
  - (b) so far as not agreed between A and B—
    - (i) the suitability of the correction,
    - (ii) the sufficiency of the apology, and
    - (iii) whether the manner of the publication of the correction and apology was reasonable in the circumstances,
- and may reduce or increase the amount to be paid from that offered (if any) accordingly.
- (7) If A and B do not agree on the amount to be paid by way of expenses, the court must determine the appropriate amount on the same principles as expenses awarded in court proceedings.
- (8) Proceedings under this section are to be heard and determined without a jury.
- (9) In this section, a “qualified offer” is an offer to make amends made under section 13 that is made only in relation to a specific defamatory meaning which the person making the offer accepts that the statement conveys.