



Defamation and Malicious Publication (Scotland) Act 2021

2021 asp 10

PART 1

DEFAMATION

Offers to make amends

16 Rejection of unqualified offer to make amends

- (1) This section—
 - (a) applies where a person (B) rejects or is deemed to have rejected an offer to make amends made under section 13, but
 - (b) does not apply to the rejection or deemed rejection of a qualified offer (see section 17).
- (2) It is a defence to defamation proceedings brought by B against the person who made the offer (A) that B rejected the offer (or is deemed to have rejected it).
- (3) The defence is not available if (at the time of making the statement complained of) A knew or had reason to believe that the statement—
 - (a) referred to B or was likely to be understood as referring to B, and
 - (b) was both false and defamatory of B,but it is to be presumed, unless the contrary is shown, that A did not know and had no reason to believe that this was the case.
- (4) Where A relies on the defence under this section, A may not rely on any other defence.
- (5) The offer may be relied on in mitigation of damages whether or not it was relied on as a defence.
- (6) 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.