



# Defamation Act 1996

## 1996 CHAPTER 31

### *Summary disposal of claim*

#### **8 Summary disposal of claim**

- (1) In defamation proceedings the court may dispose summarily of the plaintiff's claim in accordance with the following provisions.
- (2) The court may dismiss the plaintiff's claim if it appears to the court that it has no realistic prospect of success and there is no reason why it should be tried.
- (3) The court may give judgment for the plaintiff and grant him summary relief (see section 9) if it appears to the court that there is no defence to the claim which has a realistic prospect of success, and that there is no other reason why the claim should be tried.

Unless the plaintiff asks for summary relief, the court shall not act under this subsection unless it is satisfied that summary relief will adequately compensate him for the wrong he has suffered.

- (4) In considering whether a claim should be tried the court shall have regard to—
  - (a) whether all the persons who are or might be defendants in respect of the publication complained of are before the court;
  - (b) whether summary disposal of the claim against another defendant would be inappropriate;
  - (c) the extent to which there is a conflict of evidence;
  - (d) the seriousness of the alleged wrong (as regards the content of the statement and the extent of publication); and
  - (e) whether it is justifiable in the circumstances to proceed to a full trial.
- (5) Proceedings under this section shall be heard and determined without a jury.

## 9 Meaning of summary relief

- (1) For the purposes of section 8 (summary disposal of claim) “summary relief” means such of the following as may be appropriate—
- (a) a declaration that the statement was false and defamatory of the plaintiff;
  - (b) an order that the defendant publish or cause to be published a suitable correction and apology;
  - (c) damages not exceeding £10,000 or such other amount as may be prescribed by order of the Lord Chancellor;
  - (d) an order restraining the defendant from publishing or further publishing the matter complained of.
- (2) The content of any correction and apology, and the time, manner, form and place of publication, shall be for the parties to agree.
- If they cannot agree on the content, the court may direct the defendant to publish or cause to be published a summary of the court’s judgment agreed by the parties or settled by the court in accordance with rules of court.
- If they cannot agree on the time, manner, form or place of publication, the court may direct the defendant to take such reasonable and practicable steps as the court considers appropriate.
- (3) Any order under subsection (1)(c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## 10 Summary disposal: rules of court

- (1) Provision may be made by rules of court as to the summary disposal of the plaintiff’s claim in defamation proceedings.
- (2) Without prejudice to the generality of that power, provision may be made—
- (a) authorising a party to apply for summary disposal at any stage of the proceedings;
  - (b) authorising the court at any stage of the proceedings—
    - (i) to treat any application, pleading or other step in the proceedings as an application for summary disposal, or
    - (ii) to make an order for summary disposal without any such application;
  - (c) as to the time for serving pleadings or taking any other step in the proceedings in a case where there are proceedings for summary disposal;
  - (d) requiring the parties to identify any question of law or construction which the court is to be asked to determine in the proceedings;
  - (e) as to the nature of any hearing on the question of summary disposal, and in particular—
    - (i) authorising the court to order affidavits or witness statements to be prepared for use as evidence at the hearing, and
    - (ii) requiring the leave of the court for the calling of oral evidence, or the introduction of new evidence, at the hearing;
  - (f) authorising the court to require a defendant to elect, at or before the hearing, whether or not to make an offer to make amends under section 2.

## **11 Summary disposal: application to Northern Ireland**

In their application to Northern Ireland the provisions of sections 8 to 10 (summary disposal of claim) apply only to proceedings in the High Court.