*Table of Statutes referred to in this Act*

| Short Title | Session and Chapter |
|---|---|
| Licensing (Scotland) Act, 1903 ... ... ... | 3 Edw. 7. c. 25. |
| Licensing (Consolidation) Act, 1910 ... ... | 10 Edw. 7. & 1 Geo. 5. c. 24. |
| Temperance (Scotland) Act, 1913 ... ... | 3 & 4 Geo. 5. c. 33. |
| Local Government Act, 1933 ... ... ... | 23 & 24 Geo. 5. c. 51. |
| New Towns Act, 1946 ... ... ... ... | 9 & 10 Geo. 6. c. 68. |
| Finance Act, 1947 ... ... ... ... ... | 10 & 11 Geo. 6. c. 35. |
| Local Government (Scotland) Act, 1947... ... | 10 & 11 Geo. 6. c. 43. |
| Town and Country Planning (Scotland) Act, 1947 | 10 & 11 Geo. 6. c. 53. |
| Licensing Act, 1949 ... ... ... ... | 12, 13 & 14 Geo. 6. c. 59. |

# CHAPTER 66

## *Defamation Act*, 1952

ARRANGEMENT OF SECTIONS

Section
1. Broadcast statements.
2. Slander affecting official, professional or business reputation.
3. Slander of title, &c.
4. Unintentional defamation.
5. Justification.
6. Fair comment.
7. Qualified privilege of newspapers.
8. Extent of Law of Libel Amendment Act, 1888, s. 3.
9. Extension of certain defences to broadcasting.
10. Limitation on privilege at elections.
11. Agreements for indemnity.
12. Evidence of other damages recovered by plaintiff.
13. Consolidation of actions for slander, &c.
14. Application of Act to Scotland.
15. Legislative powers of Parliament of Northern Ireland.
16. Interpretation.
17. Proceedings affected and saving.
18. Short title, commencement, extent and repeals.

SCHEDULE.—Newspaper statements having qualified privilege.
Part I—Statements privileged without explanation or contradiction.
Part II—Statements privileged subject to explanation or contradiction.
Part III—Interpretation.

# An Act to amend the law relating to libel and slander and other malicious falsehoods.

[30th October 1952.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Broadcast statements.

**1.** For the purposes of the law of libel and slander, the broadcasting of words by means of wireless telegraphy shall be treated as publication in permanent form.

Slander affecting official, professional or business reputation.

**2.** In an action for slander in respect of words calculated to disparage the plaintiff in any office, profession, calling, trade or business held or carried on by him at the time of the publication, it shall not be necessary to allege or prove special damage, whether or not the words are spoken of the plaintiff in the way of his office, profession, calling, trade or business.

Slander of title, &c.

**3.**—(1) In an action for slander of title, slander of goods or other malicious falsehood, it shall not be necessary to allege or prove special damage—

(*a*) if the words upon which the action is founded are calculated to cause pecuniary damage to the plaintiff and are published in writing or other permanent form; or

(*b*) if the said words are calculated to cause pecuniary damage to the plaintiff in respect of any office, profession, calling, trade or business held or carried on by him at the time of the publication.

(2) Section one of this Act shall apply for the purposes of this section as it applies for the purposes of the law of libel and slander.

Unintentional defamation.

**4.**—(1) A person who has published words alleged to be defamatory of another person may, if he claims that the words were published by him innocently in relation to that other person, make an offer of amends under this section; and in any such case—

(*a*) if the offer is accepted by the party aggrieved and is duly performed, no proceedings for libel or slander shall be taken or continued by that party against the person making the offer in respect of the publication in question (but without prejudice to any cause of action against any other person jointly responsible for that publication);

(*b*) if the offer is not accepted by the party aggrieved, then, except as otherwise provided by this section, it shall be a defence, in any proceedings by him for libel or slander against the person making the offer in respect of the publication in question, to prove that the words complained of were published by the defendant innocently in relation to the plaintiff and that the offer was made as soon as practicable after the defendant received notice that they were or might be defamatory of the plaintiff, and has not been withdrawn.

(2) An offer of amends under this section must be expressed to be made for the purposes of this section, and must be accompanied by an affidavit specifying the facts relied upon by the person making it to show that the words in question were published by him innocently in relation to the party aggrieved; and for the purposes of a defence under paragraph (*b*) of subsection (1) of this section no evidence, other than evidence of facts specified in the affidavit, shall be admissible on behalf of that person to prove that the words were so published.

(3) An offer of amends under this section shall be understood to mean an offer—

(*a*) in any case, to publish or join in the publication of a suitable correction of the words complained of, and a sufficient apology to the party aggrieved in respect of those words;

(*b*) where copies of a document or record containing the said words have been distributed by or with the knowledge of the person making the offer, to take such steps as are reasonably practicable on his part for notifying persons to whom copies have been so distributed that the words are alleged to be defamatory of the party aggrieved.

(4) Where an offer of amends under this section is accepted by the party aggrieved—

(*a*) any question as to the steps to be taken in fulfilment of the offer as so accepted shall in default of agreement between the parties be referred to and determined by the High Court, whose decision thereon shall be final;

(*b*) the power of the court to make orders as to costs in proceedings by the party aggrieved against the person making the offer in respect of the publication in question, or in proceedings in respect of the offer under paragraph (*a*) of this subsection, shall include power to order the payment by the person making the offer to the party aggrieved of costs on an indemnity basis and

any expenses reasonably incurred or to be incurred by that party in consequence of the publication in question;

and if no such proceedings as aforesaid are taken, the High Court may, upon application made by the party aggrieved, make any such order for the payment of such costs and expenses as aforesaid as could be made in such proceedings.

(5) For the purposes of this section words shall be treated as published by one person (in this subsection referred to as the publisher) innocently in relation to another person if and only if the following conditions are satisfied, that is to say—

(*a*) that the publisher did not intend to publish them of and concerning that other person, and did not know of circumstances by virtue of which they might be understood to refer to him; or

(*b*) that the words were not defamatory on the face of them, and the publisher did not know of circumstances by virtue of which they might be understood to be defamatory of that other person,

and in either case that the publisher exercised all reasonable care in relation to the publication; and any reference in this subsection to the publisher shall be construed as including a reference to any servant or agent of his who was concerned with the contents of the publication.

(6) Paragraph (*b*) of subsection (1) of this section shall not apply in relation to the publication by any person of words of which he is not the author unless he proves that the words were written by the author without malice.

Justification.

**5.** In an action for libel or slander in respect of words containing two or more distinct charges against the plaintiff, a defence of justification shall not fail by reason only that the truth of every charge is not proved if the words not proved to be true do not materially injure the plaintiff's reputation having regard to the truth of the remaining charges.

Fair comment.

**6.** In an action for libel or slander in respect of words consisting partly of allegations of fact and partly of expression of opinion, a defence of fair comment shall not fail by reason only that the truth of every allegation of fact is not proved if the expression of opinion is fair comment having regard to such of the facts alleged or referred to in the words complained of as are proved.

Qualified privilege of newspapers.

**7.**—(1) Subject to the provisions of this section, the publication in a newspaper of any such report or other matter as is mentioned in the Schedule to this Act shall be privileged unless the publication is proved to be made with malice.

(2) In an action for libel in respect of the publication of any such report or matter as is mentioned in Part II of the Schedule

to this Act, the provisions of this section shall not be a defence if it is proved that the defendant has been requested by the plaintiff to publish in the newspaper in which the original publication was made a reasonable letter or statement by way of explanation or contradiction, and has refused or neglected to do so, or has done so in a manner not adequate or not reasonable having regard to all the circumstances.

(3) Nothing in this section shall be construed as protecting the publication of any matter the publication of which is prohibited by law, or of any matter which is not of public concern and the publication of which is not for the public benefit.

(4) Nothing in this section shall be construed as limiting or abridging any privilege subsisting (otherwise than by virtue of section four of the Law of Libel Amendment Act, 1888) immediately before the commencement of this Act.

(5) In this section the expression " newspaper " means any paper containing public news or observations thereon, or consisting wholly or mainly of advertisements, which is printed for sale and is published in the United Kingdom either periodically or in parts or numbers at intervals not exceeding thirty-six days.

Extent of Law of Libel Amendment Act, 1888, s.3.

**8.** Section three of the Law of Libel Amendment Act, 1888 (which relates to contemporary reports of proceedings before courts exercising judicial authority) shall apply and apply only to courts exercising judicial authority within the United Kingdom.

Extension of certain defences to broadcasting.

**9.**—(1) Section three of the Parliamentary Papers Act, 1840 (which confers protection in respect of proceedings for printing extracts from or abstracts of parliamentary papers) shall have effect as if the reference to printing included a reference to broadcasting by means of wireless telegraphy.

(2) Section seven of this Act and section three of the Law of Libel Amendment Act, 1888, as amended by this Act shall apply in relation to reports or matters broadcast by means of wireless telegraphy as part of any programme or service provided by means of a broadcasting station within the United Kingdom, and in relation to any broadcasting by means of wireless telegraphy of any such report or matter, as they apply in relation to reports and matters published in a newspaper and to publication in a newspaper ; and subsection (2) of the said section seven shall have effect, in relation to any such broadcasting, as if for the words " in the newspaper in which " there were substituted the words " in the manner in which."

(3) In this section " broadcasting station " means any station in respect of which a licence granted by the Postmaster General under the enactments relating to wireless telegraphy is in force,

being a licence which (by whatever form of words) authorises the use of the station for the purpose of providing broadcasting services for general reception.

Limitation on privilege at elections.

**10.** A defamatory statement published by or on behalf of a candidate in any election to a local government authority or to Parliament shall not be deemed to be published on a privileged occasion on the ground that it is material to a question in issue in the election, whether or not the person by whom it is published is qualified to vote at the election.

Agreements for indemnity.

**11.** An agreement for indemnifying any person against civil liability for libel in respect of the publication of any matter shall not be unlawful unless at the time of the publication that person knows that the matter is defamatory, and does not reasonably believe there is a good defence to any action brought upon it.

Evidence of other damages recovered by plaintiff.

**12.** In any action for libel or slander the defendant may give evidence in mitigation of damages that the plaintiff has recovered damages, or has brought actions for damages, for libel or slander in respect of the publication of words to the same effect as the words on which the action is founded, or has received or agreed to receive compensation in respect of any such publication.

Consolidation of actions for slander, &c.

**13.** Section five of the Law of Libel Amendment Act, 1888 (which provides for the consolidation, on the application of the defendants, of two or more actions for libel by the same plaintiff) shall apply to actions for slander and to actions for slander of title, slander of goods or other malicious falsehood as it applies to actions for libel; and references in that section to the same, or substantially the same, libel shall be construed accordingly.

Application of Act to Scotland.

**14.** This Act shall apply to Scotland subject to the following modifications, that is to say:—

(*a*) sections one, two, eight and thirteen shall be omitted;

(*b*) for section three there shall be substituted the following section—

"Actions for verbal injury.

**3.** In any action for verbal injury it shall not be necessary for the pursuer to aver or prove special damage if the words on which the action is founded are calculated to cause pecuniary damage to the pursuer.";

(*c*) subsection (2) of section four shall have effect as if at the end thereof there were added the words "Nothing in this subsection shall be held to entitle a defender to lead evidence of any fact specified in the declaration unless notice of his intention so to do has been given in the defences."; and

(*d*) for any reference to libel, or to libel or slander, there shall be substituted a reference to defamation; the expression "plaintiff" means pursuer; the expression "defendant" means defender; for any reference to an affidavit made by any person there shall be substituted a reference to a written declaration signed by that person; for any reference to the High Court there shall be substituted a reference to the Court of Session or, if an action of defamation is depending in the sheriff court in respect of the publication in question, the sheriff; the expression "costs" means expenses; and for any reference to a defence of justification there shall be substituted a reference to a defence of *veritas*.

Legislative powers of Parliament of Northern Ireland.

**15.** No limitation on the powers of the Parliament of Northern Ireland imposed by the Government of Ireland Act, 1920, shall preclude that Parliament from making laws for purposes similar to the purposes of this Act.

Interpretation.

**16.**—(1) Any reference in this Act to words shall be construed as including a reference to pictures, visual images, gestures and other methods of signifying meaning.

(2) The provisions of Part III of the Schedule to this Act shall have effect for the purposes of the interpretation of that Schedule.

(3) In this Act "broadcasting by means of wireless telegraphy" means publication for general reception by means of wireless telegraphy within the meaning of the Wireless Telegraphy Act, 1949, and "broadcast by means of wireless telegraphy" shall be construed accordingly.

(4) Where words broadcast by means of wireless telegraphy are simultaneously transmitted by telegraph as defined by the Telegraph Act, 1863, in accordance with a licence granted by the Postmaster General the provisions of this Act shall apply as if the transmission were broadcasting by means of wireless telegraphy.

Proceedings affected and saving.

**17.**—(1) This Act applies for the purposes of any proceedings begun after the commencement of this Act, whenever the cause of action arose, but does not affect any proceedings begun before the commencement of this Act.

(2) Nothing in this Act affects the law relating to criminal libel.

Short title, commencement, extent and repeals.

**18.**—(1) This Act may be cited as the Defamation Act, 1952, and shall come into operation one month after the passing of this Act.

(2) This Act (except section fifteen) shall not extend to Northern Ireland.

(3) Sections four and six of the Law of Libel Amendment Act, 1888, are hereby repealed.

# SCHEDULE

Sections 7, 16.

## NEWSPAPER STATEMENTS HAVING QUALIFIED PRIVILEGE

### PART I

STATEMENTS PRIVILEGED WITHOUT EXPLANATION OR CONTRADICTION

1. A fair and accurate report of any proceedings in public of the legislature of any part of Her Majesty's dominions outside Great Britain.

2. A fair and accurate report of any proceedings in public of an international organisation of which the United Kingdom or Her Majesty's Government in the United Kingdom is a member, or of any international conference to which that government sends a representative.

3. A fair and accurate report of any proceedings in public of an international court.

4. A fair and accurate report of any proceedings before a court exercising jurisdiction throughout any part of Her Majesty's dominions outside the United Kingdom, or of any proceedings before a court-martial held outside the United Kingdom under the Naval Discipline Act, the Army Act or the Air Force Act.

5. A fair and accurate report of any proceedings in public of a body or person appointed to hold a public inquiry by the government or legislature of any part of Her Majesty's dominions outside the United Kingdom.

6. A fair and accurate copy of or extract from any register kept in pursuance of any Act of Parliament which is open to inspection by the public, or of any other document which is required by the law of any part of the United Kingdom to be open to inspection by the public.

7. A notice or advertisement published by or on the authority of any court within the United Kingdom or any judge or officer of such a court.

### PART II

STATEMENTS PRIVILEGED SUBJECT TO EXPLANATION OR CONTRADICTION

8. A fair and accurate report of the findings or decision of any of the following associations, or of any committee or governing body thereof, that is to say—

(*a*) an association formed in the United Kingdom for the purpose of promoting or encouraging the exercise of or interest in any art, science, religion or learning, and empowered by its constitution to exercise control over or adjudicate upon matters of interest or concern to the association, or the actions or conduct of any persons subject to such control or adjudication :

(*b*) an association formed in the United Kingdom for the purpose of promoting or safeguarding the interests of any trade, business, industry or profession, or of the persons carrying on or engaged in any trade, business, industry or profession, and empowered by its constitution to exercise control over or adjudicate upon matters connected with the trade, business, industry or profession, or the actions or conduct of those persons;

(*c*) an association formed in the United Kingdom for the purpose of promoting or safeguarding the interests of any game, sport or pastime to the playing or exercise of which members of the public are invited or admitted, and empowered by its constitution to exercise control over or adjudicate upon persons connected with or taking part in the game, sport or pastime,

being a finding or decision relating to a person who is a member of or is subject by virtue of any contract to the control of the association

9. A fair and accurate report of the proceedings at any public meeting held in the United Kingdom, that is to say, a meeting bona fide and lawfully held for a lawful purpose and for the furtherance or discussion of any matter of public concern, whether the admission to the meeting is general or restricted.

10. A fair and accurate report of the proceedings at any meeting or sitting in any part of the United Kingdom of—

(*a*) any local authority or committee of a local authority or local authorities;

(*b*) any justice or justices of the peace acting otherwise than as a court exercising judicial authority;

(*c*) any commission, tribunal, committee or person appointed for the purposes of any inquiry by Act of Parliament, by Her Majesty or by a Minister of the Crown;

(*d*) any person appointed by a local authority to hold a local inquiry in pursuance of any Act of Parliament;

(*e*) any other tribunal, board, committee or body constituted by or under, and exercising functions under, an Act of Parliament,

not being a meeting or sitting admission to which is denied to representatives of newspapers and other members of the public.

11. A fair and accurate report of the proceedings at a general meeting of any company or association constituted, registered or certified by or under any Act of Parliament or incorporated by Royal Charter, not being a private company within the meaning of the Companies Act, 1948.

12. A copy or fair and accurate report or summary of any notice or other matter issued for the information of the public by or on behalf of any government department, officer of state, local authority or chief officer of police.

## PART III

### INTERPRETATION

13. In this Schedule the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"Act of Parliament" includes an Act of the Parliament of Northern Ireland, and the reference to the Companies Act, 1948, includes a reference to any corresponding enactment of the Parliament of Northern Ireland;

"government department" includes a department of the Government of Northern Ireland;

"international court" means the International Court of Justice and any other judicial or arbitral tribunal deciding matters in dispute between States;

"legislature", in relation to any territory comprised in Her Majesty's dominions which is subject to a central and a local legislature, means either of those legislatures;

"local authority" means any authority or body to which the Local Authorities (Admission of the Press to Meetings) Act, 1908, or the Local Government (Ireland) Act, 1902, as amended by any enactment of the Parliament of Northern Ireland, applies;

"part of Her Majesty's dominions" means the whole of any territory within those dominions which is subject to a separate legislature.

14. In relation to the following countries and territories, that is to say, India, the Republic of Ireland, any protectorate, protected state or trust territory within the meaning of the British Nationality Act, 1948, any territory administered under the authority of a country mentioned in subsection (3) of section one of that Act, the Sudan and the New Hebrides, the provisions of this Schedule shall have effect as they have effect in relation to Her Majesty's dominions, and references therein to Her Majesty's dominions shall be construed accordingly.

*Table of Statutes referred to in this Act*

| Short Title | Session and Chapter |
|---|---|
| Parliamentary Papers Act, 1840 ... ... ... | 3 & 4 Vict. c. 9. |
| Telegraph Act, 1863 ... ... ... ... | 26 & 27 Vict. c. 112. |
| Law of Libel Amendment Act, 1888 ... ... | 51 & 52 Vict. c. 64. |
| Local Government (Ireland) Act, 1902 ... ... | 2 Edw. 7. c. 38. |
| Local Authorities (Admission of the Press to Meetings) Act, 1908 ... ... ... ... | 8 Edw. 7. c. 43. |
| Government of Ireland Act, 1920 ... ... | 10 & 11 Geo. 5. c. 67. |
| Companies Act, 1948 ... ... ... ... | 11 & 12 Geo. 6. c. 38. |
| British Nationality Act, 1948 ... ... ... | 11 & 12 Geo. 6. c. 56. |
| Wireless Telegraphy Act, 1949 ... ... ... | 12, 13 & 14 Geo. 6. c. 54. |