



# Defamation and Malicious Publication (Scotland) Act 2021

2021 asp 10

## PART 3

### GENERAL

#### *Limitation*

#### **32 Limitation of actions**

(1) Section 18A of the Prescription and Limitation (Scotland) Act 1973 (limitation of defamation and other actions) is amended as follows.

(2) In subsection (1)—

- (a) after “defamation” insert “or under section 21, 22 or 23 of the 2021 Act (actionable types of malicious publication)”,
- (b) for “3 years” substitute “one year”.

(3) After subsection (1), insert—

“(1A) Where—

- (a) a person publishes a statement to the public or to a section of the public (“the first publication”), and
- (b) the person subsequently publishes (whether or not to the public) the same statement or a statement that is substantially the same (“the subsequent publication”),

any right of action against the person for defamation or under section 21, 22 or 23 of the 2021 Act in respect of the subsequent publication is to be treated as having accrued on the date of the first publication.

(1B) Subsection (1A) does not apply where the court determines that the manner of the subsequent publication is materially different from the manner of the first publication.

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*Status: This is the original version (as it was originally enacted).*

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- (1C) In determining whether the manner of the subsequent publication is materially different from the manner of the first publication, the court may have regard to—
- (a) the level of prominence that the statement is given,
  - (b) the extent of the subsequent publication, and
  - (c) any other matter that the court considers relevant.”.
- (4) In subsection (2), after “defamed” insert “or harmed by a malicious publication in a manner described in section 21, 22 or 23 of the 2021 Act”.
- (5) After subsection (3) insert—
- “(3A) This section continues to have effect in relation to a statement which was published before the day on which section 32 of the 2021 Act comes into force as if it had not been amended by section 32 of the 2021 Act.
- (3B) In determining whether subsection (1A) applies, no account is to be taken of a statement which was published before the day on which section 32 of the 2021 Act comes into force.”.
- (6) In subsection (4)—
- (a) for paragraph (a) substitute—
    - “(aa) “the 2021 Act” means the Defamation and Malicious Publication (Scotland) Act 2021,”,
  - (b) in paragraph (b)—
    - (i) after “construed” insert “(subject to subsection (1A))”,
    - (ii) for “publication or communication” substitute “statement”,
    - (iii) after “defamation” insert “or, as the case may be, under section 21, 22 or 23 of the 2021 Act”,
    - (iv) for “first came to the notice of the pursuer.” substitute “was published, and”,
  - (c) after [paragraph \(b\)](#), insert—
    - “(c) “statement” has the meaning given in section 36 of the 2021 Act (interpretation).”.