

*These notes refer to the Defamation Act (Northern Ireland)  
2022 (c.30) which received Royal Assent on 6 June 2022*

# Defamation Act (Northern Ireland) 2022

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### ***Section 6: Action against a person not domiciled in the UK***

This section aims to address the issue of “libel tourism” (a term which is used to apply where cases with a tenuous link to Northern Ireland are brought in this jurisdiction). *Subsection (1)* focuses the provision on cases where an action is brought against a person who is not domiciled in the UK.

*Subsection (2)* provides that a court does not have jurisdiction to hear and determine an action to which the section applies unless it is satisfied that, of all the places in which the statement complained of has been published, Northern Ireland is clearly the most appropriate place in which to bring an action in respect of the statement. This means that in cases where a statement has been published in this jurisdiction and also abroad the court will be required to consider the overall global picture to consider where it would be most appropriate for a claim to be heard. It is intended that this will overcome the problem of courts readily accepting jurisdiction simply because a claimant frames their claim so as to focus on damage which has occurred in this jurisdiction only. This would mean that, for example, if a statement was viewed 100,000 times in Australia and only 5,000 times in Northern Ireland, that would be a good basis on which to conclude that the most appropriate jurisdiction in which to bring an action in respect of the statement was Australia rather than Northern Ireland. There will however be a range of factors which the court may wish to take into account including, for example, the amount of damage to the claimant’s reputation in this jurisdiction compared to elsewhere, the extent to which the publication was targeted at a readership in this jurisdiction compared to elsewhere, and whether there is reason to think that the claimant would not receive a fair hearing elsewhere.

*Subsection (3)* provides that the references in *subsection (2)* to the statement complained of include references to any statement which conveys the same, or substantially the same, imputation as the statement complained of. This addresses the situation where a statement is published in a number of countries but is not exactly the same in all of them, and will ensure that a court is not impeded in deciding whether Northern Ireland is the most appropriate place to bring the claim by arguments that statements elsewhere should be regarded as different publications even when they are substantially the same. It is the

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intention that this new rule will be capable of being applied within the existing procedural framework for defamation claims.

*Subsection (4)* is a technical legal definition of the meaning of being domiciled in the United Kingdom.