



# Defamation Act 2013

## 2013 CHAPTER 26

### *Defences*

#### **5 Operators of websites**

- (1) This section applies where an action for defamation is brought against the operator of a website in respect of a statement posted on the website.
- (2) It is a defence for the operator to show that it was not the operator who posted the statement on the website.
- (3) The defence is defeated if the claimant shows that—
  - (a) it was not possible for the claimant to identify the person who posted the statement,
  - (b) the claimant gave the operator a notice of complaint in relation to the statement, and
  - (c) the operator failed to respond to the notice of complaint in accordance with any provision contained in regulations.
- (4) For the purposes of subsection (3)(a), it is possible for a claimant to “identify” a person only if the claimant has sufficient information to bring proceedings against the person.
- (5) Regulations may—
  - (a) make provision as to the action required to be taken by an operator of a website in response to a notice of complaint (which may in particular include action relating to the identity or contact details of the person who posted the statement and action relating to its removal);
  - (b) make provision specifying a time limit for the taking of any such action;
  - (c) make provision conferring on the court a discretion to treat action taken after the expiry of a time limit as having been taken before the expiry;
  - (d) make any other provision for the purposes of this section.
- (6) Subject to any provision made by virtue of subsection (7), a notice of complaint is a notice which—
  - (a) specifies the complainant’s name,

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*Status: This is the original version (as it was originally enacted).*

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- (b) sets out the statement concerned and explains why it is defamatory of the complainant,
  - (c) specifies where on the website the statement was posted, and
  - (d) contains such other information as may be specified in regulations.
- (7) Regulations may make provision about the circumstances in which a notice which is not a notice of complaint is to be treated as a notice of complaint for the purposes of this section or any provision made under it.
- (8) Regulations under this section—
  - (a) may make different provision for different circumstances;
  - (b) are to be made by statutory instrument.
- (9) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (10) In this section “regulations” means regulations made by the Secretary of State.
- (11) The defence under this section is defeated if the claimant shows that the operator of the website has acted with malice in relation to the posting of the statement concerned.
- (12) The defence under this section is not defeated by reason only of the fact that the operator of the website moderates the statements posted on it by others.