



# Defamation Act 1952

## 1952 CHAPTER 66

### **4 Unintentional defamation.**

- (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after the defendant received notice that they were or might be defamatory of the plaintiff, and has not been withdrawn.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.