
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 154 (C. 10)

DEFAMATION

**The Defamation and Malicious Publication (Scotland) Act 2021
(Commencement and Transitional Provision) Regulations 2022**

<i>Made</i>	- - - -	<i>3rd May 2022</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>5th May 2022</i>
<i>Coming into force</i>	- -	<i>8th August 2022</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by section 39(2), (3) and (4) of the Defamation and Malicious Publication (Scotland) Act 2021⁽¹⁾ and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Defamation and Malicious Publication (Scotland) Act 2021 (Commencement and Transitional Provision) Regulations 2022 and come into force on 8 August 2022.

(2) In these Regulations, “the 2021 Act” means the Defamation and Malicious Publication (Scotland) Act 2021.

Appointed day

2. The day appointed for the coming into force of the 2021 Act, so far as not already in force, is 8 August 2022.

Specifying the date on which certain provisions come into force

3. In section 18A (limitation of defamation and other actions) of the Prescription and Limitation (Scotland) Act 1973⁽²⁾, in each of subsections (3A) and (3B), for “the day on which section 32 of the 2021 Act comes into force” substitute “8 August 2022”.

⁽¹⁾ 2021 asp 10.

⁽²⁾ 1973 c. 52. Section 18A was inserted by section 12(2) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985, and is amended by section 32 of the 2021 Act, once commenced.

Transitional provision

4.—(1) Sections 2 (prohibition on public authorities bringing proceedings) and 3 (restriction on proceedings against secondary publishers) of the 2021 Act have no effect in relation to any right of action for defamation where the right to bring such proceedings accrued before 8 August 2022.

(2) Sections 33 (interruption of limitation period: mediation) and 34 (interruption of limitation period: media complaints and expert determination) of the 2021 Act have no effect in relation to any action for defamation or any proceedings for a verbal injury where the right of action or the right to bring such proceedings accrued before 8 August 2022.

St Andrew's House,
Edinburgh
3rd May 2022

ASH REGAN
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force the Defamation and Malicious Publication (Scotland) Act 2021 (“the 2021 Act”), insofar as not already in force. The Bill for the 2021 Act received Royal Assent on 21 April 2021. Sections 36 to 40 of the 2021 Act came into force on the following day. The 2021 Act amends the law of defamation and makes provision to replace the common law delicts of verbal injury with three new statutory delicts relating to malicious publication.

Regulation 2 brings the remaining provisions of the 2021 Act into force on 8 August 2022.

Regulation 3 amends section 18A of the Prescription and Limitation (Scotland) Act 1973 (limitation of defamation and other actions). It specifies a date of 8 August 2022. Section 18A will continue to have effect in relation to statements published before that date.

Regulation 4 makes provision that section 2 (prohibition on public authorities bringing proceedings) and section 3 (restriction on proceedings against secondary publishers) of the 2021 Act have no effect in relation to any right of action for defamation where the right to bring the proceedings accrues before 8 August 2022.

Regulation 5 makes provision that section 33 (interruption of limitation period: mediation) and section 34 (interruption of limitation period: media complaints and expert determination) of the 2021 Act have no effect in relation to any action for defamation or any proceedings for a verbal injury, where the right to bring such action or proceedings accrues before 8 August 2022.