



Defamation Act 1996

1996 CHAPTER 31

Responsibility for publication

1 Responsibility for publication.

- [^{F1}(1) In defamation proceedings a person has a defence if he shows that—
- (a) he was not the author, editor or publisher of the statement complained of,
 - (b) he took reasonable care in relation to its publication, and
 - (c) he did not know, and had no reason to believe, that what he did caused or contributed to the publication of a defamatory statement.
- (2) For this purpose “author”, “editor” and “publisher” have the following meanings, which are further explained in subsection (3)—
- “author” means the originator of the statement, but does not include a person who did not intend that his statement be published at all;
- “editor” means a person having editorial or equivalent responsibility for the content of the statement or the decision to publish it; and
- “publisher” means a commercial publisher, that is, a person whose business is issuing material to the public, or a section of the public, who issues material containing the statement in the course of that business.
- (3) A person shall not be considered the author, editor or publisher of a statement if he is only involved—
- (a) in printing, producing, distributing or selling printed material containing the statement;
 - (b) in processing, making copies of, distributing, exhibiting or selling a film or sound recording (as defined in Part I of the ^{M1}Copyright, Designs and Patents Act 1988) containing the statement;
 - (c) in processing, making copies of, distributing or selling any electronic medium in or on which the statement is recorded, or in operating or providing any equipment, system or service by means of which the statement is retrieved, copied, distributed or made available in electronic form;

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- (d) as the broadcaster of a live programme containing the statement in circumstances in which he has no effective control over the maker of the statement;
- (e) as the operator of or provider of access to a communications system by means of which the statement is transmitted, or made available, by a person over whom he has no effective control.

In a case not within paragraphs (a) to (e) the court may have regard to those provisions by way of analogy in deciding whether a person is to be considered the author, editor or publisher of a statement.

- (4) Employees or agents of an author, editor or publisher are in the same position as their employer or principal to the extent that they are responsible for the content of the statement or the decision to publish it.
- (5) In determining for the purposes of this section whether a person took reasonable care, or had reason to believe that what he did caused or contributed to the publication of a defamatory statement, regard shall be had to—
 - (a) the extent of his responsibility for the content of the statement or the decision to publish it,
 - (b) the nature or circumstances of the publication, and
 - (c) the previous conduct or character of the author, editor or publisher.
- (6) This section does not apply to any cause of action which arose before the section came into force.]

Textual Amendments

F1 Ss. 1-4 repealed (S.) (8.8.2022) by [Defamation and Malicious Publication \(Scotland\) Act 2021 \(asp 10\)](#), [ss. 35\(3\)\(a\)](#), 39(2); S.S.I. 2022/154, regs. 1(2), 2

Marginal Citations

M1 1988 c. 48.

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