



# Defamation Act 1996

## 1996 CHAPTER 31

### *Offer to make amends*

#### **3 Accepting an offer to make amends.**

[<sup>F1</sup>(1) If an offer to make amends under section 2 is accepted by the aggrieved party, the following provisions apply.

- (2) The party accepting the offer may not bring or continue defamation proceedings in respect of the publication concerned against the person making the offer, but he is entitled to enforce the offer to make amends, as follows.
- (3) If the parties agree on the steps to be taken in fulfilment of the offer, the aggrieved party may apply to the court for an order that the other party fulfil his offer by taking the steps agreed.
- (4) If the parties do not agree on the steps to be taken by way of correction, apology and publication, the party who made the offer may take such steps as he thinks appropriate, and may in particular—
  - (a) make the correction and apology by a statement in open court in terms approved by the court, and
  - (b) give an undertaking to the court as to the manner of their publication.
- (5) If the parties do not agree on the amount to be paid by way of compensation, it shall be determined by the court on the same principles as damages in defamation proceedings.

The court shall take account of any steps taken in fulfilment of the offer and (so far as not agreed between the parties) of the suitability of the correction, the sufficiency of the apology and whether the manner of their publication was reasonable in the circumstances, and may reduce or increase the amount of compensation accordingly.

- (6) If the parties do not agree on the amount to be paid by way of costs, it shall be determined by the court on the same principles as costs awarded in court proceedings.
- (7) The acceptance of an offer by one person to make amends does not affect any cause of action against another person in respect of the same publication, subject as follows.

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*Changes to legislation: There are currently no known outstanding effects for the Defamation Act 1996, Section 3. (See end of Document for details)*

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- (8) In England and Wales or Northern Ireland, for the purposes of the <sup>M1</sup>Civil Liability (Contribution) Act 1978—
- (a) the amount of compensation paid under the offer shall be treated as paid in bona fide settlement or compromise of the claim; and
  - (b) where another person is liable in respect of the same damage (whether jointly or otherwise), the person whose offer to make amends was accepted is not required to pay by virtue of any contribution under section 1 of that Act a greater amount than the amount of the compensation payable in pursuance of the offer.
- (9) In Scotland—
- (a) subsection (2) of section 3 of the <sup>M2</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1940 (right of one joint wrongdoer as respects another to recover contribution towards damages) applies in relation to compensation paid under an offer to make amends as it applies in relation to damages in an action to which that section applies; and
  - (b) where another person is liable in respect of the same damage (whether jointly or otherwise), the person whose offer to make amends was accepted is not required to pay by virtue of any contribution under section 3(2) of that Act a greater amount than the amount of compensation payable in pursuance of the offer.
- (10) Proceedings under this section shall be heard and determined without a jury.]

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**Extent Information**

**E1** S. 3(1)-(7)(10) extend to the United Kingdom; s. 3(8) extends to England and Wales and Northern Ireland; s. 3(9) extends to Scotland see s. 18(1)(2)(3).

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**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

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**Commencement Information**

**I1** S. 3 partly in force; s. 3 not in force at Royal Assent see s. 19; s. 3 in force for E.W. at 28.2.2000 by S.I. 2000/222, **art. 3**; s. 3(1)-(7)(9)(10) in force for S. at 31.3.2001 by S.S.I. 2001/98, **art. 3(a)**

**I2** S. 3(1)-(8)(10) in force at 6.1.2010 for N.I. by S.I. 2009/2858, **art. 3(a)**

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**Marginal Citations**

**M1** 1978 c. 47.  
**M2** 1940 c. 42.

**Changes to legislation:**

There are currently no known outstanding effects for the Defamation Act 1996, Section 3.