



### **Defamation Bill – 2006 What changes will it bring?**

Updates the 1961 legislation and provides for the following:

1. Creates one new tort of defamation to replace old torts of slander and libel
2. Provides for the swearing of verifying affidavits by both the plaintiff and the defendant in respect of all pleadings lodged, which affidavits can be relied upon in cross examination
3. Provides for the establishment of a Press Council which will establish a code of practice for print media and it also provides for the establishment of a Press Ombudsman
4. Defences:
  - Provides for new defence of *“fair and reasonable publication”*
  - Also incorporates the defences which have evolved since 1961 through case law into statute  
le: qualified privilege (Qualified privilege attaches to communications where the informant has a legal, moral or social duty to communicate the information and the recipient has a similar duty to receive it) consent & innocent publication
5. Provides for a lodgement to be made by the Defendant to court without an admission of liability. The 1961 Act only provided for a lodgement being made where liability had been admitted in the defence
6. Provides for a new remedy of a *“declaratory order”* which is a fast track system whereby the plaintiff can apply to court for a declaration from the court that the statement made was defamatory as opposed to seeking damages. It also provides for a *“corrective order”* whereby the court can order the defendant to publish a corrective statement. The difficulty with this is that it can only be done by way of application to the high court and there is no provision there for an application to be made to the Circuit Court
7. Provides for an increase in the jurisdiction of the Circuit Court to €50,000 in defamation actions as oppose to the current limit of €38,092.00
8. Proposes for a change in the statute of limitations from the current 6 years for libel and 3 years for slander to one year, but there is a provision for the statute to be extended to 2 years where *“the interests of justice require”*
9. Changes the definition of defamation from the current common law definition of *“that which tends to lower that person in the eyes of right thinking members of society or which tends to hold that person up to hatred, ridicule or contempt, or causes that person to be shunned or avoided by right-thinking members of society”*  
  
to *“that which tends to injure a person’s reputation in the eyes of reasonable members of society”*

## The bill is currently before the Seanad

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