

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,982, 24 ta' April, 2018

Taqsim A

MALTA

ATT Nru XI tal-2018

ATT maħruġ b'ligi mill-Parlament ta' Malta.

ATT biex jipprovdi għall-aġġornar tar-regolamentazzjoni ta' hwejjeġ li jikkoncernaw il-midja u l-malafama u għal hwejjeġ konsegwenzjali jew anċillari għal dan.

ACT No. XI of 2018

AN ACT enacted by the Parliament of Malta.

AN ACT to provide for the updating of the regulation of media and defamation matters and for matters consequential or ancillary thereto.

Nagħti l-kunsens tiegħi.

(L.S.)

**MARIE-LOUISE
COLEIRO PRECA
President**

24 ta' April, 2018

ATT Nru XI tal-2018

ATT biex jipprovdi għall-aġġornar tar-regolamentazzjoni ta' ħwejjeg li jikkoncernaw il-midja u l-malafama u għal ħwejjeg konsegwenzjali jew ancillari għal dan.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħarġet b'ligi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2018 dwar il-Midja u l-Malafama. Titolu fil-qosor u bidu fis-sehh.

(2) Dan l-Att għandu jidhol fis-sehh f'dik id-data li l-Ministru responsabbli għall-gustizzja jista' b'ordni fil-Gazzetta jistabilixxi u jistgħu jigu stabbiliti dati differenti u arrangamenti transitorji differenti fir-rigward ta' dispożizzjonijiet u għanijiet differenti ta' dan l-Att.

2. F'dan l-Att sakemm ir-rabta tal-kliem ma teħtieġx xort'oħra: Tifsir.

"awtur" tfisser il-persuna li tikteb jew li tikteb ma' haddieħor kontenut imxerred b'xi midja;

"editor", meta jkun hemm persuna hekk registrata tfisser il-

persuna reġistrata bħala editur skont l-artikolu 19, u, meta ma jkun hemm ebda persuna reġistrata skont l-artikolu 19, tinkludi kull persuna li tkun responsabbli għall-kontroll editorjali jew tal-kontenut ta' xi midja;

"ingurja" tfisser malafama bi stqarrija li tkun intqalet b'malizja bil-fomm;

"libell" tfisser malafama permezz ta' pubblikazzjoni;

Kap. 350.

"liċenzja ta' xandir" għandu jkollha l-istess tifsira mogħtija lilha fl-Att dwar ix-Xandir;

"malafama" tfisser il-komunikazzjoni ta' kliem li jagħmlu ħsara serja lir-reputazzjoni ta' persuna u tinkludi l-libell u l-ingurja;

"midja" tinkludi kull forma ta' tixrid ta' ideat, informazzjoni, jew opinjonijiet dwar materja ta' interess pubbliku, lill-pubbliku ingenerali jew lil sezzjoni tal-pubbliku, li tkun taħt il-kontroll editorjali ta' editur;

"midja miktuba" tfisser kull kitba jew stampat, isir b'liema mezz isir, u tinkludi kull kontenut tal-midja miktub li jkun imxerred b'kull mezz kemm jekk permezz ta' pjattaformi elettronici *online* kif ukoll jekk imxerred b'kull mezz *offline* mingħajr l-użu ta' pjattaformi elettronici u tinkludi kull mezz ieħor li bih kliem jew immaġni viżwali jistgħu jinstemgħu jew jiġu perċepiti;

"persuna" tinkludi korp ta' persuni sew jekk ikollhom personalità ġuridika distinta sew jekk le;

"pubblikazzjoni" tfisser kwalunkwe att li bih kull midja miktuba tiġi jew tista' tkun komunikata lil jew tingieb għall-għarfien ta' xi persuni jew li bih kliem jew immaġni viżwali jiġu disseminati;

"Reġistratur tal-Midja" tfisser dik il-persuna li l-Prim Ministru jista', minn żmien għal żmien b'avviż fil-Gazzetta, jahtar bħala Reġistratur tal-Midja għall-finijiet ta' dan l-Att;

"responsabbli għall-pubblikazzjoni" tfisser persuna li tkun sid jew tikkontrolla impriza li tippubblika midja miktuba;

"xandir" tfisser trasmissjoni permezz ta' fili jew fuq l-arja, inkluża dik permezz ta' satellita, ta' stqarrija jew immaġni viżivi, sew jekk dik l-istqarrija jew immaġni jkunu fil-fatt riċevuti minn

xi persuna sew jekk le.

3. (1) Stqarrijiet diffamatorji fil-midja miktuba għandhom ikunu meqjusa bħala ppubblikati u li jikkostitwixxu libell. X'jikkostitwixxi libell.

(2) Stqarrijiet diffamatorji joħolqu azzjoni ta' libell quddiem il-qorti kompetenti u d-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili li jirrigwardaw azzjonijiet ipprezentati quddiem il-Qrati Ċivili għandhom japplikaw għal tali azzjoni. Kap. 12.

(3) L-azzjoni ċivili għal malafama taħt dan l-Att dwar kull haġa ppubblikata fil-midja tista' tittiehed kontra kull waħda minn dawn il-persuni li ġejjin:

(a) l-awtur, jekk huwa jkun iproduċa x-xogħol sabiex jiġi ppubblikat, jew jekk ikun ta l-kunsens tiegħu għal hekk;

(b) l-EDITOR,

jew, jekk daww il-persuni ma jkunux jistgħu jiġu faċilment identifikati,

(c) ir-responsabbli għall-pubblikazzjoni:

Iżda ma jistgħux isiru kawżi separati kontra l-persuni msemmija fil-paragrafi (a), (b) u (c) hawn fuq dwar l-istess malafama.

(4) Stqarrijiet mhumiex diffamatorji sakemm ma jikkawżaw ħsara serja jew ikunu jistgħu jikkawżaw ħsara serja lir-reputazzjoni tal-persuna jew persuni speċifiċi li jagħmlu t-talba:

Iżda, għall-finijiet ta' dan l-artikolu, ħsara lir-reputazzjoni ta' korp li jopera għal profitt mhijiex ħsara serja sakemm ma tkunx ikkawżat jew tkun ser tikkawża telf finanzjarju serju.

4. (1) (a) Hija difiża għal azzjoni ta' malafama li l-konvenut juri li l-imputazzjoni li tkun saret bi stqarrijiet li dwarhom sar l-ilment huma sostanzjalment veri. Difiżi. Verità.

(b) Meta stqarrijiet li dwarhom ikun sar l-ilment iwasslu għal żewġ imputazzjonijiet jew aktar, jekk ma jiġix muri li waħda jew aktar mill-imputazzjonijiet tkun sostanzjalment vera, id-difiża taħt dan l-artikolu ma taqax jekk, wara li jkun għew ikkunsidrati l-imputazzjonijiet li jiġu murija li huma sostanzjalment veri, l-imputazzjonijiet li ma jiġux murija li huma sostanzjalment veri ma jikkawżaw ħsara serja lir-reputazzjoni tal-attur.

(2) Hija difiża għal azzjoni ta' malafama li l-konvenut juri li l-kundizzjonijiet li ġejjin għew sodisfatti: Opinjoni onesta.

A 240

(a) id-dikjarazzjoni li dwarha jkun sar l-ilment hija dikjarazzjoni ta' opinjoni;

(b) id-dikjarazzjoni li dwarha jkun sar l-ilment indikat, kemm f'termini generali jew speċifiċi, il-bażi tal-opinjoni;

(ċ) li persuna onesta setgħet ikollha dik l-opinjoni abbażi ta' -

(i) kwalunkwe fatt li eżista fiż-żmien li fih id-dikjarazzjoni li dwarha jkun sar l-ilment kienet ippubblikata; jew

(ii) kull haġa affermata bħala fatt f'dikjarazzjoni privileġġjata ppubblikata qabel id-dikjarazzjoni li dwarha jkun sar l-ilment.

(3) Id-difiża msemmija fis-subartikolu (2) tkun mitlufa jekk l-attur juri li l-konvenut ma kellux dik l-opinjoni:

Iżda dan is-subartikolu m'għandux japplika f'każ li d-dikjarazzjoni li dwarha jkun sar l-ilment kienet ippubblikata mill-konvenut iżda tkun saret minn persuna oħra ("l-awtur"); u f'dak il-każ id-difiża tkun mitlufa jekk l-attur juri li l-konvenut kien jaf jew li kellu jkun jaf li l-awtur ma kellux dik l-opinjoni.

(4) Għall-finijiet tas-subartikolu (2) dikjarazzjoni hija "dikjarazzjoni privileġġjata" jekk il-persuna responsabbli għall-pubblikazzjoni tagħha tista' turi bħala difiża għaliha li -

(a) il-pubblikazzjoni hija dwar materja ta' interess pubbliku li tkun diġà ngħatat pubbliċità b'mod aċċessibbli għal udjenza kbira f'*medium* stabbilit; jew

(b) il-pubblikazzjoni hija dikjarazzjoni evalwata minn persuni oħra fil-qasam xjentifiku jew akkademiku; jew

(ċ) il-pubblikazzjoni hija rapport ta' proċeduri fil-qorti protetti bi privileġġ assolut skont l-artikolu 7.

(5) Id-difiża msemmija fis-subartikoli (1) u (2) għandhom japplikaw biss meta l-persuna aggravata hija persuna pubblika, bħal meta l-imsemmija persuna:

(a) hija uffiċjal pubbliku jew impjegat pubbliku jew uffiċjal jew impjegat ta' korp stabbilit mil-liġi jew ta' korp li fih il-Gvern ta' Malta għandu kontroll effettiv; jew

(b) hija kandidat għal kariga pubblika u l-fatti attribwiti lilha jirreferu għall-onestà, abbiltà jew kompetenza tagħha, sabiex tokkupa dik il-kariga; jew

(c) abitwalment teżerċita professjoni, arti jew sengħa, u l-fatti attribwiti lilha jirreferu għat-twettiq ta' dik il-professjoni, arti jew sengħa; jew

(d) tiegħu sehem attiv fil-politika u l-fatti attribwiti lilha jirreferu għas-sehem tagħha fil-politika; jew

(e) tokkupa pożizzjoni ta' fiduċja f'materja ta' interess pubbliku generali:

Iżda l-verità dwar il-materji li għalihom issir l-akkuża ma jistgħux jiġu investigati jekk dawk il-materji jirreferu għall-ħajja privata tal-attur u l-fatti allegati ma jkollhom ebda rilevanza sinifikanti fuq it-twettiq tal-funzjonijiet pubbliċi jew tal-professjoni, arti jew sengħa ta' dik il-persuna:

Iżda wkoll, minkejja d-dispożizzjonijiet ta' dan is-subartikolu, id-difiżi msemmija fis-subartikoli (1) u (2) jistgħu jitqajmu fejn il-materja msemmija hija materja ta' interess pubbliku generali jew fejn il-persuna aggravata, għad li ma tkunx persuna pubblika tkun involuta f'materja ta' interess pubbliku, jew fejn wara li tqis kif jixraq iċ-ċirkostanzi kollha tat-talba l-Qorti tkun sodisfatta li t-tqanqil ta' dawk id-difiżi jkun meħtieġ għall-amministrazzjoni tal-gustizzja b'mod xieraq.

(6) Bla ħsara għad-dispożizzjonijiet l-oħra ta' dan l-artikolu, fi kwalunkwe azzjoni ta' malafama taħt dan l-Att, il-konvenut għandu d-dritt li jissottometti bħala difiża kull raġuni għall-mitigazzjoni ta' danni kif ukoll kwalunkwe talba li, jekk tiġi aċċettata, twassal għaċ-ċaħda tal-azzjoni u l-konvenut jista' jissottometti talbiet li l-pubblikazzjoni mhijiex malafamanti u li l-fatti msemmija huma veri u, jew li kwalunkwe opinjoni espressa hija opinjoni onesta. Is-sottomissjoni ta' talba bħal din ma teskludix oħra awtomatikament.

5. (1) Hija difiża għal azzjoni ta' malafama li l-konvenut juri li -

Pubblikazzjoni
dwar materja ta'
interess
pubbliku.

(a) id-dikjarazzjoni li dwarha sar l-ilment kienet, jew kienet tiffirma parti minn, dikjarazzjoni ta' materja ta' interess pubbliku; u

(b) il-konvenut raġonevolment emmen li l-pubblikazzjoni ta' dik l-istqarrija li sar l-ilment dwarha kienet ta' interess pubbliku.

(2) Bla ħsara għad-dispożizzjonijiet tas-subartikoli (3) u (4), sabiex wiehed jiddetermina jekk il-konvenut weriex il-materji msemmija fis-subartikolu (1), il-Qorti għandha tikkunsidra ċ-ċirkostanzi kollha tal-każ.

(3) Jekk id-dikjarazzjoni li dwarha jkun sar l-ilment kienet, jew kienet tiffirma parti minn, rendikont preċiż jew imparzjali ta' kwistjoni li fiha l-konvenut kien parti, il-Qorti għandha, fid-deċiżjoni jekk kienx raġonevoli jew le li l-konvenut jemmen li l-pubblikazzjoni ta' dik id-dikjarazzjoni kienet ta' interess pubbliku, ma tagħtix każ ta' xi ommissjoni tal-konvenut li jieħu passi sabiex jivverifika l-verità tal-imputazzjoni mwassla minnha.

(4) Fid-deċiżjoni dwar jekk kienx raġonevoli għall-konvenut li jemmen li l-pubblikazzjoni ta' dik id-dikjarazzjoni li dwarha jkun sar l-ilment kienet fl-interess pubbliku, il-Qorti għandha tippermetti għudizzju editorjali kif jidrilha li huwa xieraq.

(5) Sabiex jiġi evitat id-dubju, wiehed jista' juża d-difiża taħt dan l-artikolu irrispettivament jekk id-dikjarazzjoni li dwarha jkun sar l-ilment hijiex dikjarazzjoni ta' fatt jew dikjarazzjoni ta' opinjoni.

Dikjarazzjoni evalwata minn persuni oħra fil-qasam xjentifiku jew akkademiku f'gurnal xjentifiku jew akkademiku, eċċ.

6. (1) Il-pubblikazzjoni ta' dikjarazzjoni f'gurnal xjentifiku jew akkademiku (kemm jekk ippubblikat b'mod elettroniku jew xort'oħra) hija privileġġjata jekk ikunu osservati l-kundizzjonijiet li ġejjin:

(a) li d-dikjarazzjoni għandha x'taqsam ma' materja xjentifika jew akkademika;

(b) li qabel ma d-dikjarazzjoni kienet ippubblikata fil-gurnal saret revizjoni indipendenti dwar il-mertu xjentifiku jew akkademiku tad-dikjarazzjoni minn:

(i) l-editur tal-gurnal; u

(ii) persuna waħda jew aktar b'kompetenza fil-materja xjentifika jew akkademika kkonċernata.

(2) Meta l-pubblikazzjoni ta' dikjarazzjoni f'gurnal xjentifiku jew akkademiku hija privileġġjata bis-saħħa tas-subartikolu (1) il-pubblikazzjoni fl-imsemmi gurnal ta' kwalunkwe valutazzjoni tal-mertu xjentifiku jew akkademiku tad-dikjarazzjoni hija wkoll privileġġjata jekk -

(a) il-valutazzjoni kienet miktuba minn persuna waħda jew aktar li għamli revizjoni indipendenti tad-dikjarazzjoni; u

(b) il-valutazzjoni nkitbet b'rabta ma' dik ir-reviżjoni.

(3) Meta l-pubblikazzjoni ta' dikjarazzjoni jew valutazzjoni hija privileġġjata bis-saħħa ta' dan l-artikolu, il-pubblikazzjoni ta' kopja xierqa u preċiża ta' estratt minn jew taqsira tad-dikjarazzjoni jew valutazzjoni huma wkoll privileġġjati.

(4) Minkejja d-dispożizzjonijiet l-oħra ta' dan l-artikolu publikazzjoni mhijiex privileġġjata bis-saħħa ta' dan l-artikolu jekk jiġi muri li saret b'malizzja.

(5) Xejn f'dan l-artikolu m'għandu jinftehem -

(a) li jipproteġi l-pubblikazzjoni ta' materja li l-pubblikazzjoni tagħha hija pprojbata bil-liġi;

(b) li tillimita kwalunkwe privileġġ li jeżisti apparti minn dan l-artikolu.

7. (1) Ma jkun hemm ebda azzjoni għal malafama fir-rigward tal-pubblikazzjonijiet li ġejjin:

Pubblikazzjonijiet privileġġjati.

(a) publikazzjonijiet li jkunu saru skont Att tal-Parlament jew bl-awtorità tal-President ta' Malta jew tal-Kamra tad-Deputati;

(b) publikazzjonijiet li jikkonsistu f'komunikazzjonijiet bejn uffiċjali pubbliċi, jew bejn dawk l-uffiċjali u kuntratturi tas-servizz pubbliku jew uffiċjali ta' korporazzjonijiet pubbliċi, rapporti ta' inkjesti magħmula skont kwalunkwe liġi, jew dikjarazzjonijiet minn uffiċjali pubbliċi li jkunu saru *bona fide* fl-interess pubbliku inklużi interessi ta' sigurtà nazzjonali, integrità territorjali, sigurtà pubblika, għal prevenzjoni ta' diżordni jew reat jew għall-protezzjoni tas-saħħa u l-morali;

(ċ) publikazzjonijiet ta' rapporti *bona fide* ta' dibattiti tal-Kamra tad-Deputati, sakemm il-parti rilevanti tad-dibattitu tiġi ppubblikata, u d-difiża ta' kwalunkwe persuna li kontra tagħha tkun saret l-akkuża ma tiġix imrażżna jew imqassra jew modifikata malizzjożament jew negligement;

(d) publikazzjonijiet ta' rapporti ta' proċeduri f'qorti tal-gustizzja f'Malta, sakemm dawn ir-rapporti huma rapporti imparzjali tal-proċeduri u l-pubblikazzjoni ta' dawk ir-rapporti jew proċeduri mhijiex ipprojbata bil-liġi jew mill-qorti;

(e) kwalunkwe evidenza mogħtija *bona fide* u skont il-liġi quddiem qorti jew quddiem tribunal imwaqqaf b'liġi:

Iżda ma jistgħux jiġu ppubblikati -

(a) kwalunkwe haġa li, permezz tal-artikolu 994 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hija pprojbita li tintuża jew tkun ippreżentata, jew

(b) kwalunkwe rapport tal-proċeduri f'xi każ ta' malafama, li fih l-evidenza tal-verità dwar il-materji li dwarhom ikunu saru l-akkużi mhijiex permessa mil-liġi.

(2) Il-pubblikazzjonijiet li ġejjin huma wkoll privileġġjati:

(a) kopja imparzjali u preċiża ta', estratt minn jew taqsira ta', notifika jew materja oħra mahruġa għall-informazzjoni tal-pubbliku minn jew f'isem -

(i) leġiżlatura jew gvern fi kwalunkwe post fid-dinja;

(ii) awtorità li tinsab fi kwalunkwe post fid-dinja li twettaq funzjonijiet governattivi inklużi funzjonijiet polizjeski;

(iii) organizzazzjoni internazzjonali jew konferenza internazzjonali;

(b) kopja imparzjali u preċiża ta', estratt minn jew taqsira ta', dokument disponibbli minn qorti fi kwalunkwe post fid-dinja, jew minn imħallef jew uffiċjal ta' dik il-qorti;

(ċ) rapport imparzjali u preċiż ta' proċeduri waqt konferenza stampa li tkun saret fi kwalunkwe post fid-dinja għad-diskussjoni ta' materja ta' interess pubbliku;

(d) kopja imparzjali u preċiża ta', estratt minn jew taqsira ta', kwalunkwe dokument iċċirkolat lil membri ta' kumpanija elenkata fil-borża -

(i) minn jew bl-awtorità tal-bord tad-diretturi tal-kumpanija,

(ii) mill-awdituri tal-kumpanija, jew

(iii) minn xi membru tal-kumpanija skont id-dritt mogħti lil minn kwalunkwe liġi.

(e) kopja imparzjali u preċiża ta', estratt minn jew taqsira ta', kwalunkwe dokument iċċirkolat lil membri ta'

kumpanija elenkata f'borża li jirrigwarda l-ħatra, rizenja, irtirar jew tkeċċija ta' diretturi ta' kumpanija jew l-awdituri tagħha;

(f) rapport imparzjali u preċiż -

(i) ta' proċeduri ta' konferenza xjentifika jew akkademika li tkun saret fi kwalunkwe post fid-dinja, jew

(ii) kopja tiegħu, estratt minn jew taqsira ta' materja ppubblikata minn dik il-konferenza.

(3) Fis-subartikolu (2) -

"qorti" tinkludi -

(a) kwalunkwe tribunal jew korp imwaqqaf taħt il-liġi ta' kwalunkwe pajjiż jew territorju li jeżerċita l-poter ġudizzjarju tal-Istat;

(b) kwalunkwe tribunal internazzjonali mwaqqaf mill-Kunsill tas-Sigurtà tan-Nazzjonijiet Uniti jew minn ftehim internazzjonali;

(ċ) kwalunkwe tribunal internazzjonali li jiddeċiedi materji fi kwistjoni bejn Stati;

"konferenza internazzjonali" tfisser konferenza li għaliha jattendu rappreżentanti ta' żewġ gvernijiet jew aktar;

"organizzazzjoni internazzjonali" tfisser organizzazzjoni li fiha huma membri żewġ gvernijiet jew aktar, u tinkludi kwalunkwe kumitat jew korp ieħor subordinat ta' dik l-organizzazzjoni.

8. (1) Fi proċeduri ta' malafama taħt dan l-Att għandha tkun difiża għall-konvenut f'kawża ta' libell li jipprova li l-informazzjoni ppubblikata jew imxandra fuq midja miktuba tikkonsisti f'rapport preċiż ta' dikjarazzjoni magħmula minn persuna pubblika li kienet taf jew huwa raġonevolment prezunt li kienet taf jew li kienet mistennija li tkun taf li dak il-kontenut ta' dik id-dikjarazzjoni kien ser jiġi ppubblikat fuq midja miktuba u li dik il-pubblikazzjoni ta' dik l-imsemmija dikjarazzjoni kienet raġjonevoment ġustifikabbli f'soċjetà demokratika.

Privileġġ
kwalifikat f'każ
ta' dikjarazzjoni
pubblika.

(2) Proċeduri ta' libell taħt dan l-Att jistgħu jsiru wkoll kontra kull persuna pubblika li tkun għamlet dikjarazzjoni f'ċirkostanzi fejn kienet taf jew kellha raġonevolment tkun taf jew kienet mistennija li tkun taf li l-kontenut tad-dikjarazzjoni tagħha kien ser jkun ippubblikat

A 246

fil-midja miktuba u fil-fatt dak il-kontenut jiġi hekk ippubblikat kollu jew parti minnu. Il-persuna jew persuni msemmija f'dan l-artikolu għandhom jitqiesu li aġixxew xjentement, fin-nuqqas ta' evidenza li turi xort' oħra.

Danni f'libell.

9. Fi proċeduri mibdija skont dan l-Att, il-Qorti tista' tordna lill-konvenut iħallas somma mhux aktar minn ħdax-il elf sitt, mija u erbghin euro (€11,640) bħala danni morali flimkien ma' danni reali taħt kwalunkwe liġi li tkun fis-seħħ:

Iżda f'azzjonijiet ta' ingurja, l-ammont massimu li għandu jiġi mogħti għal danni morali huwa ta' ħamest elef euro (€5,000).

Smigh preliminari.

10. (1) F'azzjoni ta' malafama l-Qorti għandha tappunta l-każ għas-smigh preliminari fi żmien għoxrin gurnata miż-żmien allokat għall-preżentata tar-risposta guramentata.

(2) Il-Qorti għandha, fis-smigh preliminari, wara li tisma' lill-partijiet, tiddeċiedi jekk il-kawża tistax tiġi deċiża permezz ta' medjazzjoni jew bi ftehim bejn il-partijiet jew permezz ta' apologija, f'kull każ bi jew mingħajr il-ħlas tal-ispejjeż u jew ammont ta' danni li ma jeċċedux elf euro (€1,000). Meta l-Qorti tiddeċiedi li l-azzjoni x'aktarx tista' tiġi riżolta bi ftehim jew b' medjazzjoni bejn il-partijiet għandha tirreferi l-partijiet għal medjazzjoni li għandha tiġi konkluża fi żmien speċifiku, u wara dan il-perjodu l-każ ikompli jekk ma jintlaħaq ebda ftehim bejn il-partijiet.

(3) Fejn il-Qorti tiddeċiedi li l-każ ma jistax ikun deċiż skont kif previst fis-subartikolu (2), hi għandha tipproċedi bis-smigh tal-kawża.

Valutazzjoni tal-Qorti.

11. (1) Fil-valutazzjoni tas-somma li għandha tingħata taħt dan l-Att f'każ ta' malafama, il-Qorti għandha tikkunsidra:

(a) il-gravità u sa fejn tilhaq il-malafama jew sa fejn il-malafama tista' tagħmel ħsara lir-reputazzjoni tal-attur;

(b) jekk il-konvenut eżerċitax id-diligenza mitluba qabel ma ġiet ippubblikata l-materja malafamanti;

(ċ) jekk il-konvenut għamilx jew offriex li jagħmel apologija lill-attur jew li jippubblika kjarifika għas-sodisfazzjon tal-attur qabel l-azzjoni jew kemm jista' jkun malajr wara malli l-konvenut kellu l-opportunità li jagħmel dan fil-każ ta' bidu tal-azzjoni qabel ma kien hemm l-opportunità li jagħmel jew li joffri dik l-apologija jew kjarifika.

(2) Jekk il-konvenut, qabel il-bidu tal-proċeduri, ikun għamel apologija u ppubblika korrezzjoni mhux riżervata bl-istess importanza

daqs il-pubblikazzjoni originali jew ippubblika risposta sottomessa mill-attur bl-istess importanza bhall-pubblikazzjoni originali, il-Qorti m'għandhiex tordna ammont ta' danni morali li jeċċedu hamest elef euro (€5,000).

(3) Tista' tittiehed azzjoni fir-rigward ta' kull imputazzjoni fl-istess każ u l-persuni kkonċernati fil-libell jistgħu jiġu mħarrka konguntament jew separatament:

Iżda l-ammont ta' danni morali rkuprat fir-rigward tal-istess każ m'għandux jeċċedi hax-il elf, sitt mija u erbgħin euro (€11,640).

(4) Fil-valutazzjoni tas-somma li għandha tingħata f'azzjoni għal malafama l-Qorti għandha b'dak il-mod li hija tqis li huwa xieraq fl-interess tal-proporzjonalità, tiegħu inkonsiderazzjoni wkoll il-kapaċità ekonomika tal-konvenut u l-impatt illi l-ħlas tas-somma li għandha tingħata x'aktarx ikollu fuq il-gazzetta, ix-xandar, is-sit elettroniku, il-ġurnalist jew persuna oħra li tipparteċipa fil-midja.

12. (1) Dan l-artikolu japplika fejn każ ta' malafama jinbeda kontra l-attur ta' sit elettroniku fir-rigward ta' dikjarazzjoni li tkun giet ippubblikata fuq is-sit elettroniku.

Edituri ta' siti
elettronici.

(2) Hija difiża għall-mitigazzjoni ta' danni għall-attur li juri li ma kienx l-operatur jew il-persuna li ppubblikat id-dikjarazzjoni fuq is-sit elettroniku.

(3) Id-difiża ma tiġix aċċettata jekk l-attur juri li -

(a) ma kienx possibbli għall-attur li jidentifika l-persuna li ppubblikat dik id-dikjarazzjoni, u

(b) l-attur innotifika l-ilment lill-attur fir-rigward ta' dik id-dikjarazzjoni, u

(ċ) l-attur naqas milli jirrispondi għan-notifika dwar l-ilment jew ikun naqas milli jimxi skont xi dispożizzjoni li tinsab f'regolamenti dwar avvizi bħal dawk;

(4) Għall-finijiet tal-paragrafu (a) tas-subartikolu (3), huwa possibbli għall-attur li "jidentifika" persuna biss jekk l-attur għandu informazzjoni suffiċjenti biex jista' jibda proċeduri kontra dik il-persuna.

(5) Il-Ministru jista' b'regolamenti li għandhom isiru wara proċess ta' konsultazzjoni u li għandhom jieħdu kont tal-ħtieġa li jiġi garantit bilanċ xieraq bejn il-protezzjoni tar-reputazzjoni tal-persuna u l-libertà tal-espressjoni eżerċitata kif meħtieġ f'soċjetà demokratika, u li

jkunu approvati b'rizoluzzjoni tal-Kamra tad-Deputati qabel ma jidhlu fis-seħh:

(a) jipprovdi għall-azzjoni meħtieġa li għandha tittiehed mill-editur ta' sit elettroniku fir-rigward ta' notifika ta' lment li tista' b'mod partikolari tinkludi azzjoni relatata mal-identità jew dettalji ta' kuntatt tal-persuna li ppubblikat id-dikjarazzjoni u l-azzjoni relatata mat-tneħħija tagħha;

(b) jipprovdi għall-ispeċifikazzjoni taż-żmien perentorju għat-teħid ta' dik l-azzjoni;

(c) jipprovdi għal kull haġa oħra għall-finijiet ta' dan l-artikolu.

(6) Bla ħsara għal kwalunkwe dispożizzjoni magħmula bis-saħħa tas-subartikolu (5), notifika ta' lment hija notifika li -

(a) tispeċifika isem l-attur,

(b) tistabilixxi d-dikjarazzjoni kkonċernata u tispjega r-raġuni għaliex hi malafama fir-rigward tal-attur,

(c) tispeċifika fejn fis-sit elettroniku d-dikjarazzjoni kienet ippubblikata, u

(d) ikollha informazzjoni oħra kif jista' jkun speċifikat fir-regolamenti.

(7) Id-difiża taħt dan l-artikolu tintilef jekk l-attur juri li l-editur tas-sit elettroniku aġixxa b'malizzja fir-rigward tal-pubblikazzjoni tad-dikjarazzjoni kkonċernata.

(8) Id-difiża ta' dan l-artikolu ma tintilifx minhabba biss il-fatt li l-editur tas-sit elettroniku jimmodera d-dikjarazzjonijiet ippubblikati fuqu minn oħrajn.

Regola dwar
pubblikazzjoni
wahda.

13. (1) Dan l-artikolu japplika jekk persuna -

(a) tippubblika dikjarazzjoni għall-pubbliku ("l-ewwel pubblikazzjoni"), u

(b) sussegwentement tippubblika (kemm jekk għall-pubbliku kif ukoll jekk le) dik id-dikjarazzjoni jew dikjarazzjoni li hija sostanzjalment l-istess.

(2) Fis-subartikolu (1) "pubblikazzjoni għall-pubbliku" tinkludi pubblikazzjoni lil settur tal-pubbliku.

(3) Għall-finijiet taż-żmien perentorju għall-azzjoni ta' malafama kwalunkwe każ ta' azzjoni kontra l-persuna għal malafama fir-rigward ta' pubblikazzjoni sussegwenti għandha titqies bhala li saret fid-data tal-ewwel pubblikazzjoni.

(4) Dan l-artikolu ma japplikax fir-rigward ta' pubblikazzjoni sussegwenti jekk il-mod ta' dik il-pubblikazzjoni hu materjalment differenti mill-mod li bih saret l-ewwel pubblikazzjoni.

(5) Fid-deċiżjoni jekk il-mod kif pubblikazzjoni sussegwenti hu materjalment differenti mill-mod li bih saret l-ewwel pubblikazzjoni, il-materji li l-Qorti tista' tikkonsidra jinkludu, fost materji oħra -

(a) il-livell ta' prominenza li tkun inghatat lid-dikjarazzjoni;

(b) il-firxa u ċ-ċirkolazzjoni probabbli tal-pubblikazzjoni sussegwenti;

(ċ) il-metodu ta' pubblikazzjoni.

(6) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (3) meta persuna tippublika kwantità ta' dikjarazzjonijiet għall-pubbliku li jkunu sostanzjalment simili għall-ewwel pubblikazzjoni skont is-subartikolu (5) u ebda azzjoni għal malafama ma tkun għadha nbdiet, il-persuna aggravata ma jkunx permess lilha li tistitwixxi kwantità ta' azzjonijiet kontra l-istess persuna iżda l-persuna għandha meta tistitwixxi l-azzjoni tagħmel referenza għad-diversi pubblikazzjonijiet u l-Qorti tista', b'żieda għall-kalkolu magħmul skont l-artikolu 11, tieġu inkonsiderazzjoni dik il-kwantità ta' pubblikazzjonijiet meta tkun qiegħda takkorda danni skont l-artikolu 9:

Iżda meta azzjoni tkun diġà nbdiet kontra persuna skont dan l-Att l-attur ma jithalliex jistitwixxi azzjonijiet godda dwar dawk id-dikjarazzjonijiet sussegwenti iżda jkun jista' b'rikors lill-Qorti jgħib dawk id-dikjarazzjonijiet sussegwenti għall-attenzjoni tal-Qorti u l-Qorti tkun tista' b'żieda mal-kalkolu magħmul skont l-artikolu 11 tieġu dawk id-dikjarazzjonijiet sussegwenti inkonsiderazzjoni meta tkun qiegħda takkorda danni skont l-artikolu 9.

14. Meta l-Qorti tiddeċiedi għall-attur f'azzjoni ta' malafama hi tista' tordna:

(a) lill-operatur jew l-editur ta' sit elettroniku li fuqu tkun għet ippublikata d-dikjarazzjoni ta' malafama sabiex inehhi d-dikjarazzjoni minn dak is-sit elettroniku, jew

(b) lil kwalunkwe persuna li mhijiex l-awtur, l-editur jew

Ordni sabiex
titneħha d-
dikjarazzjoni
jew tieqaf id-
distribuzzjoni,
eċċ.

ir-responsabbli għall-pubblikazzjoni ta' dik id-dikjarazzjoni malafamanti sabiex tieqaf milli tiddistribwixxi, tbigh jew turi materjal li fih dik id-dikjarazzjoni.

Dritt għar-risposta.

15. (1) Kull persuna li l-azzjonijiet jew l-intenzjonijiet tagħha jkunu ġew miżrappreżentati jew li kienet vittima ta' malafama jew li invadewlha l-ħajja privata tagħha permezz ta' publikazzjoni hija intitolata li titlob sabiex tiġi minnufih ippubblikata, mingħajr hlas, fl-istess *medium*, dikjarazzjoni ta' kontradizzjoni jew spjegazzjoni:

Iżda dan l-artikolu ma japplikax jekk il-miżrappreżentazzjoni ssir f'xandira ta' natura politika li hija parti minn skema approvata mill-Awtorità tax-Xandir fejn il-miżrappreżentazzjoni tista' tiġi kontradetta jew spjegata minn xandira oħra li hija parti mill-istess skema. Fejn il-miżrappreżentazzjoni ssir f'xandira li tkun l-aħħar waħda f'xi skema kif ingħad, tkun l-Awtorità tax-Xandir li tiddeċiedi kif għandu jiġi eżerċitat id-dritt għar-risposta:

Iżda wkoll ebda persuna m'għandha tkun mitluba li tippubblika dikjarazzjoni bħala kontradizzjoni jew spjegazzjoni li hi malafamanti jew li mhijiex miktuba bil-lingwa tar-responsabbli għall-pubblikazzjoni jew b'xi waħda mil-lingwi użati mill-*medium* tax-xandir jew tas-sit elettroniku fejn hija mitluba li għandha tkun ippubblikata:

Iżda aktar minn hekk id-dritt ta' risposta għandu jkun ristrett għall-korrezzjoni jew kontradizzjoni u, jew spjegazzjoni tal-fatti u m'għandux jestendi għas-sottomissjoni ta' opinjoni differenti.

(2) (a) F'każ ta' gazzetta, twegiba skont dan l-artikolu għandha tiġi ppubblikata f'artikolu separat u mingħajr ma jiġi interpolat minn xi kummenti jew materjal ieħor li ma jifformax parti mir-risposta, bi prominenza xierqa kif il-pubblikazzjoni nfisha li dwarha ġie eżerċitat id-dritt ta' risposta u r-risposta ma tistax tiġi mqassra jew emendata b'tali mod li tippregudika l-eżerċizzju effettiv tad-dritt ta' risposta taħt dan l-artikolu. Dik id-dikjarazzjoni għandha tiġi ppubblikata mhux aktar tard mit-tieni ħarġa tal-gazzetta wara li tkun ġiet riċevuta t-talba:

Iżda meta d-dritt ta' risposta jsir f'pubblikazzjoni ta' gazzetta ppubblikata f'intervalli ta' mill-inqas ġimgħa, dik id-dikjarazzjoni għandha tiġi ppubblikata fil-ħarġa minnufih ta' wara li tkun ġiet riċevuta t-talba jekk it-talba tkun ġiet riċevuta tal-inqas erbat ijiem qabel il-pubblikazzjoni tal-imsemmija ħarġa u mhux aktar tard mit-tieni ħarġa wara li tkun ġiet riċevuta t-talba fil-każijiet oħra kollha.

(b) Fil-każ ta' xandira, dikjarazzjoni skont is-subartikolu (1) għandha tixxandar mhux aktar tard mit-tieni ġurnata minn wara li

tkun giet riċevuta t-talba; għandha tkun imxandra b'mod u f'hin li tilhaq kemm jista' jkun possibbli l-istess udjenza u bl-istess prominenza, u l-hin allokati għandu jkun il-hin li huwa d-doppju tal-hin tax-xandira jew parti mix-xandira li dwarha sar l-ilment u li mhuwiex inqas minn disgħin sekonda u mhux aktar minn mija u tmenin sekonda.

(ċ) Mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 11, fejn l-attur xorta jibda proċeduri ta' malafama minkejja l-fatt li r-risposta tiegħu tkun giet ippubblikata skont dan l-Att, il-Qorti għandha, fid-deċiżjoni tagħha, tikkunsidra dan il-fatt u tnaqqas kwalunkwe risarċiment kif ikun xieraq.

(d) Fil-każ ta' midja li tikkonsisti f'sit elettroniku dikjarazzjoni skont is-subartikolu (1) għandha tiġi ppubblikata fuq is-sit elettroniku mhux aktar tard mit-tieni ġurnata wara li tkun giet riċevuta dik it-talba. Ir-risposta għandha tingħata l-istess prominenza li ngħatat lid-dikjarazzjoni li għaliha saret ir-risposta.

(e) Meta l-EDITOR jew operatur ta' sit elettroniku jirċievi aktar minn risposta waħda dwar l-istess suġġett l-EDITOR jew l-operatur jista' jagħmel taqsira tar-risposti.

(f) Editor jew persuna responsabbli għall-*medium* tax-xandir jew operatur ta' sit elettroniku responsabbli għall-pubblikazzjoni tar-risposta fuq sit elettroniku li jonqos milli josserva d-dispożizzjonijiet ta' dan l-artikolu jista', wara rikors tal-attur fil-Qorti tal-Maġistrati fil-ġurisdizzjoni ċivili tagħha, jiġi ordnat li jipubblika dik ir-risposta. Il-Qorti tista', wara li tkun semgħet il-partijiet, tordna wkoll lill-EDITOR, persuna responsabbli għall-*medium* tax-xandir jew operatur tas-sit elettroniku, skont kif ikun il-każ, iħallas penali lill-attur li ma teċċedix elfejn euro (€2,000).

(g) Id-dispożizzjonijiet ta' dan l-artikolu m'għandhomx japplikaw għal pubblikazzjonijiet privileġġjati kif imfissra f'dan l-Att.

(h) Id-dritt għar-risposta taht dan l-artikolu għandu jiskadi jekk il-persuna li titlob dak id-dritt ma tkunx talbitu fi żmien xahar mill-pubblikazzjoni.

16. (1) Kull min jipubblika xi dikjarazzjoni li jaf jew b'diligenza dovuta kien ikun jaf li hija falza u li tista' tikkawża ħsara lil kwalunkwe impraża ta' negozju jew kwalunkwe proprjeta' oħra jehel li jkollu jħallas lill-parti ingurjata, addizzjonalment mad-danni li jistgħu jkunu dovuti taht xi liġi oħra li tkun fis-seħħ dak iż-żmien fir-rigward ta' telf attwali jew ħsara, ammont li ma jeċċedix hdax-il elf, sitt mija u erbghin euro (€11,640) li għandu jiġi stabbilit mill-Qorti.

Libell
kummerċjali.

(2) Kumpanija, fondazzjoni, koperativa u kwalukwe persuna

A 252

guridika oħra tista' tharrek jew tiġi mharrka għal malafama.

Malafama fuq
persuni mejta.

17. (1) Tista' tittiehed azzjoni għal malafama ta' persuna mejta sakemm il-persuna mejta kienet il-missier jew l-omm jew hu jew oħt jew dixxendenti tal-attur jew l-attur huwa l-eredi tal-persuna mejta u l-attur ikun jista' juri li r-reputazzjoni tiegħu fil-fatt batiet hsara b'dik l-istqarrija.

(2) Id-dispożizzjonijiet ta' dan l-artikolu huma mingħajr preġudizzju għad-dritt ta' kwalunkwe persuna li tfittex għad-danni f'każ ta' malafama permezz ta' stqarrijiet li, minkejja li ġew ippubblikati dwar persuna mejta, huma fil-fatt malafamanti fir-rigward tal-attur hekk iżda li l-istess dikjarazzjoni ma tagħtix lok għall-ħlas ta' danni lill-attur għal aktar minn darba.

Preskrizzjoni.

18. Azzjoni taħt id-dispożizzjonijiet ta' dan l-Att għandha, sakemm ma tkunx soġġetta għal perjodu iqsar ta' preskrizzjoni taħt dan l-Att, tkun preskritta wara li tkun għaddiet sena mid-data ta' pubblikazzjoni.

Edituri.

19. (1) Kull persuna li hija residenti f'Malta u li jkollha kapaċità legali tista' tkun editur.

(2) Kull min huwa editur jew ir-responsabbli għall-pubblikazzjoni ta' gazzetta jew servizz ta' xandir jista', jekk hekk jagħzel, skont kif ikun il-każ, jipproduċi lir-Registatur tal-Midja dikjarazzjoni li jkun fiha -

(a) fil-każ tal-editur -

(i) ismu u kunjomu, numru validu legali ta' dokument ta' identifikazzjoni, età u post ta' residenza jew tax-xogħol; u

(ii) fil-każ ta' gazzetta, it-titolu u n-natura tal-gazzetta u l-intervalli li fihom huwa propost li tkun ippubblikata, u fil-każ ta' sit elettroniku l-indirizz tiegħu fuq is-sit u l-isem tad-*domain*; u

(b) fil-każ tar-responsabbli għall-pubblikazzjoni -

(i) jekk ir-responsabbli għall-pubblikazzjoni huwa individwu, ismu, kunjomu, l-età, il-post ta' residenza jew tax-xogħol u n-numru validu tad-dokument ta' identifikazzjoni legali;

(ii) jekk ir-responsabbli għall-pubblikazzjoni hija kumpanija jew assoċjazzjoni oħra ta' persuni jew persuna

güridika, isimha, l-indirizz, id-dettalji msemija fis-subparagrafu (i) fir-rigward tar-rappreżentant güridiku, u, fejn applikabli, in-numru tar-reġistrazzjoni tal-kumpanija, soċjetà jew numru ieħor ta' reġistrazzjoni;

(iii) it-titolu u natura tal-gazzetta u l-intervalli li fihom huwa propost li ssir pubblikazzjoni; u

(iv) l-isem u l-indirizz tal-istamperija fejn ser issir il-pubblikazzjoni,

u jekk jagħzlu li jirreġistraw kif provdut f'dan l-artikolu kemm l-editur kif ukoll ir-responsabli għall-pubblikazzjoni għandhom iżommu lir-Registratur tal-Midja dejjem infurmat dwar il-post ta' residenza jew il-post tax-xogħol tagħhom u għandhom jikkomunikaw mar-Registratur tal-Midja dwar kull bidla fil-post tar-residenza jew tax-xogħol tagħhom fi żmien għaxart ijiem minn dik il-bidla.

20. (1) Għandu jkun hemm Registratur tal-Midja li għandu jzomm Regjistru tal-Midja u jdaħħal fih id-dettalji msemija fl-artikolu 19 u kwalunkwe tibdil fih, u għandu jdaħħal dettalji oħra u dak it-tibdil li jsir fih kif jista' jkun xieraq jew kif jista' jiġi preskritt b'regolamenti magħmula mill-Prim Ministru taħt dan l-Att. Registratur tal-Midja.

(2) Kwalunkwe persuna tista' tispezzjona r-Regjistru tal-Midja fi żminijiet kollha raġonevoli waqt il-ħinijiet normali tal-uffiċċju u tista' wkoll, bi ħlas ta' miżata xierqa, titlob kopja ta' ċertifikat ta' kwalunkwe notament fi jew kwalunkwe estratt mir-regjistru miżmum taħt dan l-artikolu.

(3) Ir-Registratur tal-Midja għandu jikkancella reġistrazzjoni ta' editur jew ir-responsabli għall-pubblikazzjoni ta' gazzetta jew ta' servizz ta' xandir -

(a) jekk ikun hekk mitlub bil-miktub mill-editur jew mir-responsabli għall-pubblikazzjoni tagħhom; jew

(b) jekk, fil-każ ta' gazzetta ppubblikata f'intervalli li ma jeċċedux xahar, dik il-gazzetta ma tkunx ippubblikata f'perjodu li jeċċedi t-tliet xhur, u fil-każ ta' gazzetta oħra, ma tkunx ippubblikata għal perjodu li jeċċedi sena; jew

(ċ) jekk, fil-każ ta' servizz ta' xandir, dak is-servizz ma jibqax ikun liċenzjat:

Iżda d-dispożizzjonijiet ta' dan l-artikolu m'għandhomx japplikaw għal xi pubblikazzjoni perjodika ppubblikata minn, jew

b'ordni jew bil-permess jew għall-użu ta', il-President ta' Malta, il-Gvern ta' Malta jew xi Ministeru jew Dipartiment tal-Gvern jew mill-Kamra tad-Deputati.

(4) Il-Prim Ministru jista' b'regolamenti jipprovdi:

(a) li l-funzjonijiet tar-Registratur tal-Midja għandhom jiġu mwettqa minn dik il-persuna jew mill-organizzazzjoni li tista' fl-opinjoni tiegħu tirrappreżenta kif xieraq lil ġurnalisti u dawk ir-responsabbli għall-pubblikazzjoni; u

(b) li minbarra l-funzjonijiet mogħtija lir-Registratur tal-Midja b'dan l-Att ir-Registratur imsemmi jista' wkoll iwettaq funzjonijiet oħra fil-qasam tat-taħriġ, l-analisi tal-iżviluppi filmidja u t-trawwim ta' mezzi alternattivi u aċċessibbli ta' riżoluzzjoni tat-tilwim relatati mal-midja:

Iżda kull regolamenti magħmula taħt dan is-subartikolu għandhom isiru wara proċess ta' konsultazzjoni u għandhom jiġu approvati b'riżoluzzjoni tal-Kamra tad-Deputati qabel ma jidhlu fis-seħħ.

Editur f'każ ta' xandir.

21. Kull detentur ta' liċenzja ta' xandir f'Malta għandu, għall-finijiet ta' dan l-Att, jiġi kkunsidrat bħala editur u għandu jiġi kkunsidrat bħala editorjalment responsabbli għas-servizz tax-xandir u jista' jkun meħtieġ li jkun hekk registrat fir-Registru tal-Midja bħala editur sakemm dik il-persuna ma taħtarx persuna oħra sabiex tkun editur flokha.

Protezzjoni tas-sorsi tal-ġurnalisti.

22. Ebda qorti jew tribunal imwaqqaf b'ligi ma jistgħu jitolbu lil editur, awtur, ir-responsabbli għall-pubblikazzjoni jew operatur ta' sit elettroniku sabiex jiżvela s-sors ta' informazzjoni li tinsab f'gazzetta jew xandir jew sit elettroniku li għalihom huwa responsabbli sakemm ma jkunx stabbilit għas-sodisfazzjon tal-qorti jew tribunal li dak l-iżvelar huwa neċessarju f'soċjetà demokratika fl-interess tas-sigurtà nazzjonali, l-integrità territorjali, is-sigurtà pubblika, jew għall-prevenzjoni ta' diżordni jew reati jew għall-protezzjoni tal-interessi tal-ġustizzja.

Rifjut ma jikkostitwixxi disprezz tal-qorti.

23. Ebda persuna li s-sorsi tagħha huma privileġġjati skont l-artikolu 22 m'għandha tinstab haġja ta' disprezz tal-qorti talli tirrifjuta li tiżvela s-sorsi ta' informazzjoni li tinsab f'gazzetta jew f'xandira jew f'sit elettroniku li hi responsabbli għalihom sakemm il-qorti jew tribunal ma jikkonkludux li dak l-iżvelar huwa neċessarju f'soċjetà demokratika fl-interess tas-sigurtà nazzjonali, l-integrità territorjali, is-sigurtà pubblika, jew għall-prevenzjoni ta' diżordni jew reati jew għall-protezzjoni tal-interessi tal-ġustizzja u dik il-persuna tippersisti li tirrifjuta li tiżvela s-sors ta' informazzjoni.

24. Fi kwalunkwe proċeduri quddiem qorti jew tribunal, ċertifikat maħruġ u ffirmat mir-Registatur tal-Midja li juri min huwa jew fi kwalunkwe żmien kien, l-editur jew ir-responsabbli għall-pubblikazzjoni ta' gazzetta, jew servizz ta' xandir għandu jikkostitwixxi prova tal-kontenut tiegħu sakemm ma jkunx ipprovat xort'oħra.

Ċertifikat li jservi ta' prova tal-kontenut tiegħu.

25. Il-Kodiċi Kriminali għandu jiġi emendat kif ġej:

Emendi konsegwenzjali għall-Kodiċi Kriminali. Kap. 9.

(a) fis-subartikolu (1) tal-artikolu 48A tiegħu, il-kliem ", u li ma jkunx delitt taħt l-Att dwar l-Istampa," għandhom jithassru;

(b) minnufih wara l-artikolu 55 tiegħu, għandu jiżdied l-artikolu ġdid li ġej:

"Instigar biex titnehħa l-ħajja jew il-libertà tal-President ta' Malta jew ta' xi Ministru.

55A. Kull min bi kwalunkwe mezz jinstiga lil haddieħor sabiex inehħi l-ħajja jew il-libertà tal-President ta' Malta, jew ta' xi Ministru jehel meta jinstab hati, għas-sempliċi instigar, il-piena ta' prigunerija għal żmien li ma teċċedix disa' snin jew multa li ma teċċedix hamest elef euro (€5,000) jew dik il-multa u l-prigunerija flimkien.";

(ċ) (i) l-artikolu 72 tiegħu għandu jiġi mħassar;

(ii) fl-artikolu 73 tiegħu l-kliem "ixewxu mibegħda jew disprezz lejn il-persuna tal-President ta' Malta jew lejn il-Gvern ta' Malta, jew li" għandhom jiġu mħassra u l-kliem "xort'oħra milli b'mezzi skont il-liġi" għandhom jiġu sostitwiti bil-kliem "b'mezzi vjolenti" u n-nota marginali għal dak l-artikolu għandha tiġi sostitwita bil-kliem "Ġemgħa ta' nies kontra l-liġi bi ħsieb ta' sedizzjoni vjolenti.";

(iii) fl-artikolu 74 tiegħu l-kliem "biex ixewxu mibegħda jew disprezz lejn il-persuna tal-President ta' Malta jew lejn il-Gvern ta' Malta, jew" għandhom jithassru u l-kliem "xort'oħra milli b'mezzi skont il-liġi" għandhom jiġu sostitwiti bil-kliem "b'mezzi vjolenti";

(iv) l-artikolu 75 tiegħu għandu jithassar;

(d) fl-artikolu 82 tiegħu, minflok il-kliem "minn xahar sa tliet xhur." għandhom jidhlu l-kliem "minn xahar sa tliet xhur:", u minnufih wara għandu jiżdied il-proviso li ġej:

"Iżda jekk xi diżordni jirriżulta bħala konsegwenza tar-reat, jew jekk ir-reat ikkontribwixxa għal xi diżordni, l-imputat jeħel prigunerija ta' mhux inqas minn xahar iżda mhux iżjed minn sitt xhur u multa li ma teċċedix elf euro (€1,000) jew dik il-multa u l-prigunerija flimkien.";

(e) l-artikoli 252, 253, 254, 255 u 256 tiegħu għandhom jithassru u t-titolu tas-Subtitolu X tat-Titolu VIII tat-Taqsima II tal-Ewwel Ktieb tiegħu għandu jiġi sostitwit bil-kliem "FUQ IL-KXIF TA' INFORMAZZJONI RIĊEVUTA B'SIGRIET";

(f) fil-paragrafu (a) tal-artikolu 355 tiegħu, il-kliem ", minbarra delitt punibbli taht l-Att dwar l-Istampa" għandhom jithassru;

(g) fil-paragrafi (a) u (b) tas-subartikolu (1) tal-artikolu 355E tiegħu, il-kliem ", minbarra delitt punibbli taht l-Att dwar l-Istampa," għandhom jithassru u fil-paragrafu (ċ) il-kliem ", li ma jkunx delitt punibbli taht l-Att dwar l-Istampa" għandhom jithassru wkoll;

(h) is-subartikolu (5) tal-artikolu 355X tiegħu għandu jithassar;

(i) fis-subartikolu (1) tal-artikolu 355Y tiegħu, il-kliem "minbarra dejjem id-delitti punibbli taht l-Att dwar l-Istampa," għandhom jithassru;

(j) il-proviso tal-artikolu 589 tiegħu għandu jithassar.

Emenda
konsegwenzjali
għall-Kodiċi ta'
Organizzazzjoni
u Proċedura
Ċivili.
Kap. 12.

26. Minnufih wara s-subartikolu (5) tal-artikolu 837 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, għandu jiżdied is-subartikolu ġdid li ġej:

"(6) Ma jistgħux jiġu maħruġa mandati kawtelatorji ta' qbid, ta' qbid fuq azjenda kummerċjali jew mandati ta' sekwestru biex jitqiegħdu fiż-żgur jeddijiet jew pretensjonijiet kontra xi persuna għal danni għal libell jew malafama oħra taht xi liġi."

Emenda
konsegwenzjali
għall-Att dwar
il-Kontroll fil-
Pubblikazzjoni
ta'
Proċedimenti
Ġudizzjarji.
Kap. 60.

27. L-artikolu 6 tal-Att dwar il-Kontroll fil-Pubblikazzjoni ta' Proċedimenti Ġudizzjarji għandu jithassar.

28. Fil-paragrafu 8.15.2 tal-*Htiġiet* dwar *Standards* u Prattika li japplikaw ghal Bulettini tal-Ahbarijiet u l-Programmi ta' *Grajjet Kurrenti* l-kliem "Dawn il-*htiġiet* huma minghajr preġudizzju għall-artikolu 21 tal-Att dwar l-Istampa" għandhom jiġu sostitwiti bil-kliem "Dawn il-*htiġiet* huma minghajr preġudizzju għall-artikolu 15 tal-Att tal-2018 dwar il-Midja u l-Malafama".

Emenda
konsegwenzjali
għall-*Htiġiet*
dwar *Standards*
u Prattika li
japplikaw ghal
Bulettini tal-
Ahbarijiet u l-
Programmi ta'
Grajjet
Kurrenti.
L.S. 350.14.

29. Fil-*Htiġiet* dwar *Standards* u Prattika biex Tingieb 'il Quddiem l-Ugwaljanza Razzjali, il-kliem:

Emenda
konsegwenzjali
għall-*Htiġiet*
dwar *Standards*
u Prattika biex
Tingieb 'il
Quddiem l-
Ugwaljanza
Razzjali.
L.S. 350.26.

"L-artikolu 6 tal-Att tal-Istampa jgħid hekk:

"6. Kull min, b'xi mezz imsemmi fl-artikolu 3 ta' dan l-Att jhedded, jinsulta, jew jesponi għal mibegħda, persekuzzjoni jew disprezz, lil xi persuna jew grupp ta' persuni minhabba fir-razza, twemmin, kulur, nazzjonalità, sess, diżabilità kif definita fl-artikolu 2 ta' l-Att dwar l-Opportunitajiet Indaq għal Persuni b'Diżabilità jew orijini nazzjonali jew etnika jeħel meta jinsab hati prigunerija għal żmien ta' mhux iżjed minn tliet xhur u multa.".

għandhom jithassru.

30. Fil-formula 7a tar-Regolamenti dwar ix-Xandir bir-Radju Digitali, il-kliem "Min se jkun registrat skont l-Att tal-Istampa bħala l-persuna responsabbli għal kontenut editorjali ta' servizz tar-radju?" għandhom jiġu sostitwiti bil-kliem "Jekk persuna ser tiġi registrata bħala editur jew bħala persuna responsabbli għall-pubblikazzjoni skont l-Att tal-2018 dwar il-Midja u l-Malafama, min se tkun?".

Emenda
konsegwenzjali
għar-
Regolamenti
dwar ix-Xandir
bir-Radju
Digitali.
L.S. 350.29.

31. Fil-formula 6a tar-Regolamenti dwar Servizzi ta' Distribuzzjoni tax-Xandir, il-kliem "Min ser jiġi registrat taħt l-Att dwar l-Istampa bħala l-persuna responsabbli għall-kontenut editorjali tas-servizzi ta' distribuzzjoni tax-xandir?" għandhom jiġu sostitwiti bil-kliem "Jekk persuna ser tiġi registrata bħala editur jew bħala persuna responsabbli għall-pubblikazzjoni skont l-Att tal-2018 dwar il-Midja u l-Malafama, min se tkun?".

Emenda
konsegwenzjali
għar-
Regolamenti
dwar Servizzi
ta'
Distribuzzjoni
tax-Xandir.
L.S. 350.33.

32. Fl-Att biex jirregola l-Komunikazzjonijiet Elettroniċi minnufih wara l-artikolu 49 tiegħu għandu jiżdied il-proviso ġdid li ġej:

Emenda
konsegwenzjali
għall-Att biex
Jirregola l-
Komunikaz-
zjonijiet
Elettroniċi.
Kap. 399.

"Iżda sempliċi kliem malafamanti jew dikjarazzjonijiet imlissna jew ippubblikati fuq *network* ta' komunikazzjonijiet elettronici jew apparat u li jkunu jistgħu jagħtu lok għal azzjoni għal malafama jew ingurja skont l-Att dwar il-Midja u l-

A 258

Malafama m'għandhomx jagħtu lok għal reat taħt dan l-Att."

Thassir u
dispożizzjonijiet
transitorji.
Kap. 248.

33. (1) L-Att dwar l-Istampa, hawn iżjed 'il quddiem imsejjaħ "l-Att imħassar", hu b'dan imħassar mingħajr ħsara għad-dispożizzjonijiet ta' dan l-artikolu u mingħajr preġudizzju għal dak kollu li sar jew naqas milli jsir taħtu.

(2) Minkejja d-dispożizzjonijiet l-oħra ta' dan l-Att, l-Att imħassar, kif fis-seħħ qabel ma jiġi mħassar permezz ta' dan l-Att, għandu jkompli japplika fir-rigward ta' kawżi pendenti fil-qorti fiż-żmien li jithassar:

Iżda mhux aktar tard mit-tieni smiġħ fil-qorti wara d-dhul fis-seħħ ta' dan l-Att ta' kwalunkwe każ li jinvolvi każ ċivili għal malafama li fil-hin li daħal fis-seħħ dan l-Att ikun għadu għaddej u ma tħalliex għas-sottomissjonijiet finali jew għad-deċiżjoni quddiem il-Qorti tal-Maġistrati fil-ġurisdizzjoni ċivili tagħha, dik il-Qorti għandha *mutatis mutandis* tapplika d-dispożizzjonijiet tal-artikolu 10(2).

(3) L-ammonti ta' danni ċivili li japplikaw taħt l-Att imħassar qabel ma ġie mħassar permezz ta' dan l-Att għandhom, minkejja d-dispożizzjonijiet ta' dan l-Att, ikomplu japplikaw fir-rigward ta' każijiet ta' malafama mressqa taħt l-Att imħassar qabel ma jkun daħal fis-seħħ dan l-Att.

(4) Kwalunkwe proċeduri kriminali istitwiti taħt l-Att imħassar qabel id-dhul fis-seħħ ta' dan l-Att u li, mad-dhul fis-seħħ ta' dan l-Att, ikunu għadhom għaddejjin quddiem xi qorti, għandhom jieqfu.

Kap. 248.

(5) Wara d-dhul fis-seħħ ta' dan l-Att kull referenza f'xi liġi oħra għall-"Att dwar l-Istampa" għandha, *mutatis mutandis*, tinftiehem bħala referenza għall-"Att tal-2018 dwar il-Midja u l-Malafama".

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 101 tas-17 ta' April, 2018.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

**MARIE-LOUISE
COLEIRO PRECA
President**

24th April, 2018

ACT No. XI of 2018

AN ACT to provide for the updating of the regulation of media and defamation matters and for matters consequential or ancillary thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

1. (1) The short title of this Act is the Media and Defamation Act, 2018. Short title and commencement.

(2) This Act shall come into force on such date as the Minister responsible for justice may by order in the Gazette establish and different dates and transitory arrangements may be established in respect of different provisions and purposes of this Act.

2. In this Act, unless the context otherwise requires: Interpretation.

"author" means the person who authors or co-authors any content disseminated by media;

"broadcast" means the transmission by wire or over the air, including that by satellite, of statements and or visual images, whether or not such statements or images are in fact received by any person;

A 260

Cap. 350.

"broadcasting licence" shall have the same meaning as is attributed to in the Broadcasting Act;

"defamation" is the communication of a statement that seriously harms the reputation of a person and includes libel and slander;

"editor" means when there is a person so registered, means the person registered as editor in accordance with article 19, and, when there is no person registered in accordance with article 19, includes any person responsible for the editorial or content control of any media;

"libel" means defamation by publication;

"media" includes all forms of dissemination of ideas, information or opinions on matters of public interest to the general public or to a portion of the public under the editorial control of an editor;

"Media Registrar" means such person as the Prime Minister may, from time to time by notice in the Gazette, designate as Media Registrar for the purposes of this Act;

"person" includes a body of persons, whether it has a distinct legal personality or not;

"publication" means any act whereby any written media is or may be communicated to or brought to the knowledge of any person or whereby words or visual images are disseminated;

"publisher" means a person who owns or controls an enterprise publishing written media;

"slander" means defamation by spoken statements uttered with malice;

"written media" means any writing or print made by any device and includes any written media content distributed by any means both if distributed through electronic online platforms and if distributed by any means offline without the use of electronic platforms and any other means whereby words or visual images may be heard or perceived or reproduced.

What constitutes libel.

3. (1) Defamatory words in written media shall be deemed to be published and to constitute libel.

Cap. 12.

(2) Defamatory statements give rise to an action in libel before

the competent court and the provisions of the Code of Organization and Civil Procedure relating to actions filed before the court shall apply to such action.

(3) Civil proceedings for defamation under this Act in respect of anything published in the media may be instituted against each of the following persons:

(a) the author, if he shall have composed the work for the purpose of its being published, or if he shall have consented thereto;

(b) the editor,

or, if the said persons cannot be easily identified,

(c) the publisher:

Provided that separate actions may not be instituted against the persons mentioned in paragraphs (a), (b) and (c) above in respect of the same defamation.

(4) Statements are not defamatory unless they cause serious harm or are likely to seriously harm the reputation of the specific person or persons making the claim:

Provided that, for the purposes of this article, harm to the reputation of a body that trades for profit is not serious harm unless it has caused or is likely to cause serious financial loss.

4. (1) (a) It is a defence to an action for defamation for the defendant to show that the imputation conveyed by the statements complained of is substantially true. Defences. Truth.

(b) Where the statements complained of convey two or more distinct imputations, if one or more of the imputations is not shown to be substantially true, the defence under this article does not fail if, having regard to the imputations which are shown to be substantially true, the imputations which are not shown to be substantially true do not seriously harm the claimant's reputation.

(2) It is a defence to an action for defamation for the defendant to show that all the following conditions are met: Honest opinion.

(a) the statement complained of was a statement of opinion;

(b) the statement complained of indicated, whether in general or specific terms, the basis of the opinion;

(c) that an honest person could have held the opinion on the basis of -

(i) any fact which existed at the time the statement complained of was published; or

(ii) anything asserted to be a fact in a privileged statement published before the statement complained of.

(3) The defence referred to in sub-article (2) is defeated if the claimant shows that the defendant did not hold the opinion:

Provided that this sub-article shall not apply in a case where the statement complained of was published by the defendant but made by another person ("the author"); and in such a case the defence is defeated if the claimant shows that the defendant knew or ought to have known that the author did not hold the opinion.

(4) For the purposes of sub-article (2) a statement is a "privileged statement" if the person responsible for its publication can prove in his defence that -

(a) the publication is on a matter of public interest which has already been given publicity in a manner accessible to a large audience on an established medium; or

(b) the publication is a peer-reviewed statement in a scientific or academic journal; or

(c) the publication is a report of court proceedings protected by absolute privilege in terms of article 7.

(5) The defences referred to in sub-articles (1) and (2) shall only apply where the person aggrieved is a public figure, such as when the said person:

(a) is a public officer or servant or an officer or servant of a body established by law or of a body in which the Government of Malta has a controlling interest; or

(b) is a candidate for a public office and the facts attributed to him refer to his honesty, ability or competency to fill that office; or

(c) habitually exercises a profession, art or trade, and the

facts attributed to him refer to the exercise of such profession, art or trade; or

(d) takes an active part in politics and the facts attributed to him refer to his so taking part in politics; or

(e) occupies a position of trust in a matter of general public interest:

Provided that the truth of the matters charged may not be enquired into if such matters refer to the private life of the plaintiff and the facts alleged have no significant bearing on the exercise of the plaintiff's public functions, office, profession or trade:

Provided further that, notwithstanding the provisions of this sub-article, the defences referred to in sub-articles (1) and (2) may be raised where the matter referred to is a matter of general public interest or where the person aggrieved, although not being a public figure is involved in matters of public interest or where after giving due consideration to all the circumstances of the claim the Court is satisfied that the raising of the said defences is necessary in the interests of the proper administration of justice.

(6) Subject to the other provisions of this article, in any action for defamation under this Act, the defendant shall be entitled to plead in defence any cause for mitigation of damages as well as any plea which, if acceded to, would lead to the dismissal of the action and the defendant may submit pleas that the publication is not defamatory and that the facts as stated are true and, or that any opinion expressed is an honest opinion. The submission of one such plea does not automatically exclude the other.

5. (1) It is a defence to an action for defamation for the defendant to show that -

Publication on matter of public interest.

(a) the statement complained of was, or formed part of, a statement on a matter of public interest; and

(b) the defendant reasonably believed that publishing the statement complained of was in the public interest.

(2) Subject to the provisions of sub-articles (3) and (4), in determining whether the defendant has shown the matters mentioned in sub-article (1), the Court must have regard to all the circumstances of the case.

(3) If the statement complained of was, or formed part of, an

accurate and impartial account of a dispute to which the claimant was a party, the Court must, in determining whether it was reasonable for the defendant to believe that publishing the statement was in the public interest, disregard any omission of the defendant to take steps to verify the truth of the imputation conveyed by it.

(4) In determining whether it was reasonable for the defendant to believe that publishing the statement complained of was in the public interest, the Court must make such allowance for editorial judgement as it considers appropriate.

(5) For the avoidance of doubt, the defence under this article may be relied upon irrespective of whether the statement complained of is a statement of fact or a statement of opinion.

Peer-reviewed statement in scientific or academic journal, etc.

6. (1) The publication of a statement in a scientific or academic journal (whether published in electronic form or otherwise) is privileged if the following conditions are met:

(a) that the statement relates to a scientific or academic matter;

(b) that before the statement was published in the journal an independent review of the statement's scientific or academic merit was carried out by:

(i) the editor of the journal; and

(ii) one or more persons with expertise in the scientific or academic matter concerned.

(2) Where the publication of a statement in a scientific or academic journal is privileged by virtue of sub-article (1) the publication in the same journal of any assessment of the statement's scientific or academic merit is also privileged if -

(a) the assessment was written by one or more of the persons who carried out the independent review of the statement; and

(b) the assessment was written in the course of that review.

(3) Where the publication of a statement or assessment is privileged by virtue of this article, the publication of a fair and accurate copy of extract from or summary of the statement or assessment is also privileged.

(4) Notwithstanding the other provisions of this article a publication is not privileged by virtue of this article if it is shown to be made with malice.

(5) Nothing in this article is to be construed -

(a) as protecting the publication of matter the publication of which is prohibited by law;

(b) as limiting any privilege subsisting apart from this article.

7. (1) No action for defamation shall lie in respect of the following publications: Privileged publications.

(a) publications made in pursuance of an Act of Parliament or by authority of the President of Malta or of the House of Representatives;

(b) publications consisting of communications between public officers, or between such officers, and contractors of the public service or officials of public corporations, reports of inquiries held in terms of any law, or statements by public officers that are made in good faith in the public interest including the interests of national security, territorial integrity, public safety, the prevention of disorder or crime or for the protection of health or morals;

(c) publications of *bona fide* reports of debates of the House of Representatives, provided the relevant part of the debate is published, and the defence of any person against whom any charge is made is not suppressed or maliciously or negligently curtailed or altered;

(d) publications of reports of any proceedings in a court of justice in Malta, provided such reports are fair reports of the proceedings and the publication of such reports or proceedings is not prohibited by law or by the court;

(e) any evidence given in good faith and according to law before a court or before a tribunal established by law:

Provided that it shall not be lawful to publish -

(a) anything which, by article 994 of the Code of Organization and Civil Procedure, is forbidden to be used or produced, or Cap. 12.

(b) any report of the proceedings in any case of defamation, in which evidence of the truth of the matters charged is not allowed by law.

(2) The following publications are also privileged:

(a) a fair and accurate copy of, extract from or summary of, a notice or other matter issued for the information of the public by or on behalf of -

(i) a legislature or government anywhere in the world;

(ii) an authority anywhere in the world performing governmental functions including police functions;

(iii) an international organisation or international conference;

(b) a fair and accurate copy of, extract from or summary of, a document made available by a court anywhere in the world, or by a judge or officer of such a court;

(c) a fair and accurate report of proceedings at a press conference held anywhere in the world for the discussion of a matter of public interest;

(d) a fair and accurate copy of, extract from or summary of any document circulated to members of a company listed on a stock exchange -

(i) by or with the authority of the board of directors of the company,

(ii) by the auditors of the company, or

(iii) by any member of the company in pursuance of a right conferred by any law.

(e) a fair and accurate copy of, extract from or summary of any document circulated to members of a company listed on a stock exchange which relates to the appointment, resignation, retirement or dismissal of directors of the company or its auditors;

(f) a fair and accurate -

(i) report of proceedings of a scientific or

academic conference held anywhere in the world, or

(ii) copy of, extract from or summary of matter published by such a conference.

(3) In sub-article (2) -

"court" includes -

(a) any tribunal or body established under the law of any country or territory exercising the judicial power of the State;

(b) any international tribunal established by the Security Council of the United Nations or by an international agreement;

(c) any international tribunal deciding matters in dispute between States;

"international conference" means a conference attended by representatives of two or more governments;

"international organisation" means an organisation of which two or more governments are members, and includes any committee or other subordinate body of such an organisation.

8. (1) In proceedings for defamation under this Act it shall be a defence for the defendant in an action for libel to prove that the information published or broadcast on written media consisted of an accurate report of a statement made by a public figure who knew or could reasonably have known or expected that the content of that statement was to be published in written media and that the publication of the said statement was reasonably justifiable in a democratic society.

Qualified privilege in case of public statement.

(2) Proceedings for libel under this Act may also be instituted against any public figure who shall have made a statement in circumstances where he was aware or could have reasonably been aware or have expected that the content of his statement was going to be published in written media and in fact such content is in whole or in part so published. The person or persons mentioned in this article shall be deemed to have acted knowingly, in default of evidence to the contrary.

9. In proceedings instituted under this Act, the Court may order the defendant to pay a sum not exceeding eleven thousand, six hundred and forty euro (€11,640) by way of moral damages in addition to

Libel damages.

A 268

actual damages under any law for the time being in force:

Provided that in actions for slander the maximum amount to be awarded by way of moral damages shall be five thousand euro (€5,000).

Preliminary hearing.

10. (1) In an action for defamation the Court shall appoint the case for a preliminary hearing within a period of twenty days from the time allowed for the filing of the sworn reply.

(2) The Court shall, at the preliminary hearing, after hearing the parties, decide whether the action may be determined by mediation or agreement between the parties or through an apology, in all cases with or without the payment of costs and or an amount of damages not exceeding one thousand euro (€1,000). When the court decides that there is a likelihood that the action is capable of being resolved by agreement or mediation between the parties it shall refer the parties to mediation to be concluded within a specified period after which the action shall proceed if no agreement is reached between the parties.

(3) Where the Court decides that the action may not be determined as provided in sub-article (2) it shall proceed with the hearing of the cause.

Assessment by the Court.

11. (1) In assessing the sum being awarded under this Act in an action for defamation, the Court shall take into account:

(a) the gravity and extent of the defamation or the extent to which the defamation is likely to injure the reputation of the plaintiff;

(b) whether the defendant exercised due diligence before publishing the defamatory matter;

(c) whether the defendant made or offered to make an apology to the plaintiff or to publish a clarification to the satisfaction of the plaintiff before the action or as soon afterwards as the defendant had an opportunity of doing so in case of commencement of the action before there was an opportunity of making or offering such apology or clarification.

(2) Should the defendant have, prior to the commencement of the proceedings, apologised and published an unreserved correction with the same importance as the original publication or published a reply submitted by the plaintiff with the same importance as the original publication, then the Court shall not award in moral damages an amount in excess of five thousand euro (€5,000).

(3) It shall be lawful to take action in respect of each and every imputation in the same case and the persons concerned in the libel may be sued either jointly or severally:

Provided that the amount of moral damages recoverable in regard to the same case shall not exceed eleven thousand, six hundred and forty euro (€11,640).

(4) In assessing the sum to be awarded in an action for defamation the Court shall also in such manner as it may consider appropriate in the interests of proportionality, take into account the economic capacity of the defendant and the impact which the payment of the sum to be awarded is likely to have on the newspaper, broadcaster, website, journalist or other media actor.

12. (1) This article applies where an action for defamation is brought against the editor of a website in respect of a statement posted on the website. Editors of websites.

(2) It is a defence in mitigation of damages for the editor to show that it was not the operator or person who posted the statement on the website.

(3) The defence is defeated if the plaintiff shows that -

(a) it was not possible for the plaintiff to identify the person who posted the statement, and

(b) the plaintiff gave the editor a notice of complaint in relation to the statement, and

(c) the editor failed to respond to the notice of complaint or did not act in accordance with any provision contained in regulations about such notices.

(4) For the purposes of paragraph (a) of sub-article (3), it is possible for a claimant to "identify" a person only if the claimant has sufficient information to bring proceedings against the person.

(5) The Minister may by regulations which shall be made after a consultation process, and which shall take into account the need to guarantee a fair balance between the protection reputation of persons and freedom of expression exercised as is necessary in a democratic society, and which shall be approved by resolution of the House of Representatives before they come into force:

(a) make provision as to the action required to be taken by an editor of a website in response to a notice of complaint

A 270

which may in particular include action relating to the identity or contact details of the person who posted the statement and action relating to its removal;

(b) make provision specifying a time limit for the taking of any such action;

(c) make any other provision for the purposes of this article.

(6) Subject to any provision made by virtue of sub-article (5), a notice of complaint is a notice which -

(a) specifies the complainant's name,

(b) sets out the statement concerned and explains why it is defamatory of the complainant,

(c) specifies where on the website the statement was posted, and

(d) contains such other information as may be specified in regulations.

(7) The defence under this article is defeated if the plaintiff shows that the editor of the website has acted with malice in relation to the posting of the statement concerned.

(8) The defence under this article is not defeated by reason only of the fact that the editor of the website moderates the statements posted on it by others.

Single
publication rule.

13. (1) This article applies if a person -

(a) publishes a statement to the public ("the first publication"), and

(b) subsequently publishes (whether or not to the public) that statement or a statement which is substantially the same.

(2) In sub-article (1) "publication to the public" includes publication to a section of the public.

(3) For the purposes of the time limit for actions for defamation any cause of action against the person for defamation in respect of the subsequent publication is to be treated as having accrued on the date of the first publication.

(4) This article does not apply in relation to the subsequent

publication if the manner of that publication is materially different from the manner of the first publication.

(5) In determining whether the manner of a subsequent publication is materially different from the manner of the first publication, the matters to which the Court may have regard include, amongst other matters -

- (a) the level of prominence that a statement is given;
- (b) the extent and likely circulation of the subsequent publication;
- (c) the method of publication.

(6) Saving the provisions of sub-article (3), where a person publishes multiple statements to the public which are substantially similar to the first publication in terms of sub-article (5) and an action for defamation has not yet been instituted, the person aggrieved shall not be permitted to institute multiple actions against the same person but shall, in the action so instituted, make reference to the various publications and the Court may, in addition to the assessment conducted in terms of article 11, take such multiple publications into account when awarding damages in terms of article 9:

Provided that, where an action has already been instituted against a person in terms of this Act the claimant shall not be permitted to institute new actions for such subsequent statements but may, by application to the Court, bring such subsequent statements to the attention of the Court and the Court may, in addition to the assessment conducted in terms of article 11, take such subsequent statements into account when awarding damages in terms of article 9.

14. Where the Court gives a decision for the plaintiff in an action for defamation it may order -

Order to remove statement or cease distribution, etc.

- (a) the operator or editor of a website on which the defamatory statement is posted to remove the statement from that website, or
- (b) any person who was not the author, editor or publisher of the defamatory statement to stop distributing, selling or exhibiting material containing the statement.

15. (1) Any person whose actions or intentions have been misrepresented or who has been the victim of defamation or who has had his private life intruded into through a publication is entitled to demand to have published forthwith, free of charge, in the same

Right of reply.

medium, a statement by way of contradiction or explanation:

Provided that this article does not apply if the misrepresentation occurs in a broadcast of a political nature which is part of a scheme approved by the Broadcasting Authority where the misrepresentation may be contradicted or explained by another broadcast which is part of the same scheme. Where the misrepresentation occurs in a broadcast which is the last broadcast in any aforementioned scheme, the Broadcasting Authority shall decide on the manner in which the right of reply shall be exercised:

Provided also that no person shall be required to publish a statement by way of contradiction or explanation which is defamatory or which is not written in the language of the publisher or any of the languages used by the broadcasting medium or website where it is requested that it should be published:

Provided further that the right of reply shall be restricted to the correction or contradiction and, or explanation of facts and shall not extend to the submission of a different opinion.

(2) (a) In the case of a newspaper, a reply in accordance with this article shall be published as a separate article and without being interpolated with any comments or other material that does not form part of the reply, with appropriate prominence as the publication in respect of which the right of reply is exercised and it shall not be lawful to shorten or edit the reply in such a manner as to prejudice the effective exercise of the right of reply under this article. The said statement shall be published not later than the second issue of the newspaper following the receipt of the request:

Provided that when the right of reply is availed of in respect of a publication in a newspaper published at intervals of at least one week, the said statement shall be published in the issue immediately following the receipt of the request if such request is received at least four days before the publication of the said issue and not later than the second issue following the receipt of the request in all other cases.

(b) In the case of a broadcast, a statement in terms of sub-article (1) shall be broadcast not later than the second day following that on which the request is received; it shall be broadcast in a way and at a time so that it reaches as much as possible the same audience and with the same prominence, and the time allowed shall be a time which is twice the time of the broadcast or part of the broadcast complained of but which is not less than ninety seconds and not more than one hundred and eighty seconds.

(c) Without prejudice to the provisions of article 11, where the claimant still files defamation proceedings despite the fact that his reply has been published in terms of this Act, then the Court shall, in its judgement, consider this fact and reduce any award as appropriate.

(d) In the case of media consisting of a website, a statement in terms of sub-article (1) shall be uploaded on the website not later than the second day following which the request is received. The reply must be given the same prominence as that which was given to the statement being replied to.

(e) Where the editor or operator of a website receives more than one reply about the same subject the editor or operator may summarise the replies.

(f) An editor or person responsible for the broadcasting medium or an operator of a website responsible for the uploading of a reply on a website who fails to comply with the provisions of this article may, on the application of the complainant to the Court of Magistrates in its civil jurisdiction, be ordered to publish such reply. The Court may, after hearing the parties, also order the editor, person responsible for the broadcasting medium or an operator of a website, as the case may be, to pay a penalty to the complainant not exceeding two thousand euro (€2,000).

(g) The provisions of this article shall not apply to privileged publications as defined in this Act.

(h) The right of reply under this article shall lapse if the person demanding such right shall not have claimed it within one month from publication.

16. (1) Whosoever shall publish any statement which he knows or with due diligence could have known to be false and which is likely to damage any business concern or any other property shall be liable to pay to the injured party, in addition to the damages which may be due under any law for the time being in force in respect of any actual loss or injury, an amount not exceeding eleven thousand, six hundred and forty euro (€11,640) to be fixed by the Court. Trade libel.

(2) A company, a foundation, a co-operative and any other moral person may sue and be sued for defamation.

17. (1) An action shall lie for defamation of a deceased person provided that the deceased person was the father or mother or sibling or child of the plaintiff or the plaintiff is the heir of the deceased person and the plaintiff can demonstrate that his own reputation was in fact harmed by the statement. Defamation of deceased persons.

(2) The provisions of this article are without prejudice to the right of any person to seek damages in an action for defamation on account of statements which, although published about a deceased person, are in fact defamatory in respect of the plaintiff so however that the same statement may not give rise to the payment of damages to the plaintiff more than once.

Prescription. **18.** An action under the provisions of this Act shall, unless it is subject to a shorter period of prescription under this Act, be barred by prescription after the lapse of one year from date of publication.

Editors. **19.** (1) Any person who is resident in Malta and who has legal capacity may be an editor.

(2) Whosoever is an editor or a publisher of a newspaper, may, if he so elects, produce to the Media Registrar a declaration containing -

(a) in the case of the editor -

(i) his name and surname, a legally valid identification document number, age and place of work or residence; and

(ii) in the case of a newspaper, the title and nature of the newspaper, and the intervals at which it is proposed to be published; and

(b) in the case of a publisher -

(i) if the publisher is an individual, his name, surname, age, place of work or residence and a legally valid identification document number;

(ii) if the publisher is a company or other association of persons or legal person, its name, address, the particulars mentioned in sub-paragraph (i) in respect of its judicial representative, and, where applicable, its company, partnership or other registration number;

(iii) the title and nature of the newspaper and the intervals at which it is proposed to be published; and

(iv) the name and address of the press where the printing is to take place,

and, if they chose to register as provided in this article, both the editor and the publisher shall keep the Media Registrar at all times informed of their place of residence or work and shall communicate

to the Media Registrar any change in his place of residence or work within ten days of such change.

20. (1) There shall be a Media Registrar who shall keep a Media Register and enter therein the particulars referred to in article 19 and any changes thereto, and shall make such other entries therein and such alterations thereto as may be appropriate or as may be prescribed by regulations made by the Prime Minister under this Act.

(2) Any person may inspect the Media Register at all reasonable times during normal office hours and may also, against payment of the appropriate fee, require a certified copy of any entry in or any extract from the register kept under this article.

(3) The Media Registrar shall cancel the registration of an editor or a publisher of a newspaper or of a broadcasting service -

(a) if he is so requested in writing by the editor or publisher; or

(b) if, in the case of a newspaper published at intervals not exceeding one month, such newspaper is not published for a period exceeding three months, and, in the case of any other newspaper, it is not published for a period exceeding one year; or

(c) if, in the case of a broadcasting service, such service ceases to be licensed:

Provided that the provisions of this article shall not apply to any periodical publication published by, or by order or leave of or for the use of, the President of Malta, the Government of Malta or any of its Ministries or Departments or by the House of Representatives.

(4) The Prime Minister may by regulations provide:

(a) that the functions of Media Registrar shall be fulfilled by such person or organization as may in his opinion duly represent journalists and publishers; and

(b) that in addition to the functions conferred upon the Media Registrar by this Act the said Registrar may also perform other functions in the field of training, analysis of developments in the media and the fostering of alternative and accessible means of dispute resolution relating to the media:

Provided that any regulations made under this sub-article shall be made after a consultation process and shall be approved by a resolution of the House of Representatives before

A 276

they come into force.

Editor in case of
broadcasting.

21. Every holder of a broadcasting licence in Malta shall, for the purposes of this Act, be considered as editor and be considered as editorially responsible for the broadcasting service and may be required to so register as editor in the Media Register unless such person appoints another person to be editor in his stead.

Protection of
journalists'
sources.

22. No court or tribunal established by law shall require an editor, author, publisher or operator of a website to disclose the source of information contained in a newspaper or broadcast or website for which he is responsible unless it is established to the satisfaction of the court or tribunal that such disclosure is necessary in a democratic society in the interests of national security, territorial integrity, public safety, or for the prevention of disorder or crime or for the protection of the interests of justice.

Refusal not to
constitute
contempt of
court.

23. No person whose sources are privileged in terms of article 22 shall be guilty of contempt of court for refusing to disclose the source of information contained in a newspaper or broadcast or website for which he is responsible unless the court or tribunal has concluded that such disclosure is necessary in a democratic society in the interests of national security, territorial integrity, public safety, or for the prevention of disorder or crime or for the protection of the interests of justice and such person persists in refusing to disclose the source of the information.

Certificate to be
proof of its
contents.

24. In any proceedings before a court or tribunal, a certificate issued and signed by the Media Registrar showing who is or at any time was, the editor or the publisher of a newspaper, or a broadcasting service shall constitute proof of its content unless the contrary is proved.

Consequential
amendments to
the Criminal
Code.
Cap. 9.

25. The Criminal Code shall be amended as follows:

(a) in sub-article (1) of article 48A thereof the words
", not being a crime in Malta under the Press Act," shall be
deleted;

(b) immediately after article 55 thereof, there shall be

added the following new article:

"Incitement to take away the life and liberty of the President of Malta or of any Minister.

55A. Whosoever by any means shall incite others to take away the life or liberty of the President of Malta or of any Minister shall, for the mere incitement, be liable on conviction to imprisonment for a term not exceeding nine years or to a fine (*multa*) not exceeding five thousand euro (€5,000) or to both such fine and imprisonment.";

(c) (i) article 72 shall be deleted;

(ii) in article 73 thereof the words "to excite hatred or contempt towards the person of the President of Malta or towards the Government of Malta, or" shall be deleted and the words "otherwise than by lawful means" shall be substituted with the words "by violent means". The marginal note thereto shall be substituted with the words "Unlawful assembly with seditious violent intent.";

(iii) in article 74 thereof the words "to excite hatred or contempt towards the person of the President of Malta or towards the Government of Malta or" shall be deleted and the words "otherwise than by lawful means" shall be substituted with the words "by violent means";

(iv) article 75 thereof shall be deleted;

(d) in article 82 thereof, for the words "one to three months." there shall be substituted the words "one to three months:", and immediately thereafter there shall be added the following proviso:

"Provided that if any disturbance ensues in consequence of the offence, or if the offence has contributed to the occurrence of any disturbance, the offender shall be liable to imprisonment for a term of not less than one month but not exceeding six months and to a fine (*multa*) not exceeding one thousand euro (€1,000) or both such fine and imprisonment.";

(e) articles 252, 253, 254, 255 and 256 thereof shall be deleted and the title of Sub-Title X of Title VIII of Part II of Book First thereof shall be substituted with the words "OF DISCLOSURE OF INFORMATION RECEIVED IN

CONFIDENCE";

(f) in paragraph (a) of article 355 thereof the words ", not being a crime punishable under the Press Act" shall be deleted;

(g) in paragraphs (a), (b) and (c) of sub-article (1) of article 355E thereof the words "other than a crime punishable under the Press Act" shall be deleted;

(h) sub-article (5) of article 355X thereof shall be deleted;

(i) in sub-article (1) of article 355Y thereof the words "excepting always the crimes punishable under the Press Act," shall be deleted;

(j) the proviso to article 589 thereof shall be deleted.

Consequential amendment to the Code of Organization and Civil Procedure. Cap. 12.

26. Immediately after sub-article (5) of article 837 of the Code of Organization and Civil Procedure, there shall be added the following new sub-article:

"(6) It shall not be lawful to issue any precautionary warrant of seizure, warrant of seizure of a commercial going concern or garnishee order in security of any right or claim against any person for damages for libel or other defamation under any law."

Consequential amendment to the Judicial Proceedings (Regulation of Reports) Act. Cap. 60.

27. Article 6 of the Judicial Proceedings (Regulation of Reports) Act shall be deleted.

Consequential amendment to the Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes. S.L. 350.14.

28. In paragraph 8.15.2 of the Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes the words "Such requirements are without prejudice to article 21 of the Press Act." shall be substituted by the words "Such requirements are without prejudice to article 15 of the Media and Defamation Act, 2018."

29. In the Requirements as to Standards and Practice on the Promotion of Racial Equality, the words:

Consequential amendment to the Requirements as to Standards and Practice on the Promotion of Racial Equality. S.L. 350.26

"Article 6 of the Press Act reads as follows:

"6. Whosoever, by any means mentioned in article 3, shall threaten, insult, or expose to hatred, persecution or contempt, a person or group of persons because of their race, creed, colour, nationality, sex disability as defined in article 2 of the Equal Opportunities (Persons with Disability) Act, or national or ethnic origin shall be liable on conviction to imprisonment for a term not exceeding three months and to a fine (*multa*).".",

shall be deleted.

30. In form 7a in the Schedule to the Digital Radio Broadcasting Regulations the words "Who will be registered under the Press Act as the person responsible for editorial content of the radio service?" shall be substituted by "Will any person be registered as editor or publisher under the Media and Defamation Act, 2018 and if so who will that person be?".

Consequential amendment to the Digital Radio Broadcasting Regulations. S.L. 350.29.

31. In form 6a in the Schedule of the Broadcast Distribution Services Regulations the words "Who will be registered under the Press Act as the person responsible for editorial content of the broadcast distribution service?" shall be substituted by the words "Will any person be registered as editor or publisher under the Media and Defamation Act, 2018 and if so who will that person be?".

Consequential amendment to the Broadcast Distribution Services Regulations. S.L. 350.33.

32. In the Electronic Communications (Regulation) Act immediately after article 49 thereof there shall be added the following new proviso:

Consequential amendment to the Electronic Communications (Regulation) Act. Cap. 399.

"Provided that mere defamatory words or statements uttered or published on an electronic communications network or apparatus and which may give rise to an action for defamation or slander in terms of the Media and Defamation Act, shall not constitute an offence under this Act."

33. (1) The Press Act, hereinafter referred to as "the repealed Act", is hereby repealed subject to the provisions of this article and without prejudice to anything done or which may still be done thereunder.

Repeal and transitory provisions. Cap. 248.

(2) Notwithstanding the other provisions of this Act, the repealed Act, as in force prior to being repealed by virtue of this Act, shall continue to apply in respect of all causes pending before the courts at the time of its repeal:

A 280

Provided that by not later than the second court hearing after the coming into force of this Act of any cause involving a civil claim for defamation which at the time of the coming into force of this Act is pending and not adjourned for final submissions or for judgement before the Court of Magistrates in its civil jurisdiction, the said Court shall *mutatis mutandis* apply the provisions of article 10(2).

(3) The amounts of civil damages applicable under the repealed Act prior to its repeal by this Act shall, notwithstanding the provisions of this Act, continue to apply in respect of defamation causes filed under the repealed Act prior to the coming into force of this Act.

(4) Any criminal proceedings instituted under the repealed Act prior to the coming into force of this Act and which, on the coming into force of this Act, are pending before any court shall be discontinued.

Cap. 248.

(5) Any reference in any other law to "Press Act", after the coming into force of this Act, shall, *mutatis mutandis*, be read and construed as a reference to the "Media and Defamation Act, 2018".

Passed by the House of Representatives at Sitting No. 101 of the 17th April, 2018.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

