

## Abbozz ta' Ligi msejjah

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

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

**1.** (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2017 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-ġustizzja jista' b'ordni fil-Gazzetta jstabilixxi 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' xi hadd ieħor xi materja ppubblikata;

"editur" tfisser il-persuna registrata bħala editur skont l-artikolu 19 u tinkludi kwalunkwe persuna responsabbli għall-pubblikazzjoni ta' informazzjoni, ideat jew immagni fuq sit elettroniku u l-persuna responsabbli għal *medium* tax-xandir;

"ingurja" tfisser malafama bi kliem li jkun intqal b'malizzja bil-fomm;

"libell" tfisser malafama permezz ta' publikazzjoni;

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

Kap. 350.

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

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

"pubblikazzjoni" tfisser kwalunkwe att li bih kull materja stampata jew kontenut tal-midja huma jew jistgħu jkunu kkomunikati lil jew jingiebu għall-għarfien ta' xi persuna jew li bih kliem jew immaġni viżwali huma mxandra jew imtella' fuq sit elettroniku;

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

"responsabli għall-pubblikazzjoni" tfisser persuna li tkun sid jew tikkontrolla impriża għall-pubblikazzjoni ta' gazzetta jew li jkollha liċenza għax-xandir u tinkludi kwalunkwe persuna li tkun sid jew tikkontrolla faċilitajiet għall-produzzjoni jew riproduzzjoni ta' kwalunkwe materjal stampat meta dik il-persuna ikollha kontroll editorjali jew fuq il-kontenut ta' dak il-materjal stampat;

"stampat" tfisser kwalunkwe kitba jew publikazzjoni bi kwalunkwe apparat, kif ukoll kwalunkwe kartellun, avviż jew poster bi kwalunkwe mod imwaħħal jew inciż u tinkludi kull mezz ieħor li bih kliem jew immaġni viżwali jistgħu jinstemgħu jew jiġu perċepiti jew riprodotti u tinkludi kull material tal-midja u kull materjal imtella' fuq sit elettroniku u "kliem" għandha tinftiehem skont hekk;

"xandir" tfisser trasmissjoni permezz ta' fili jew fuq l-arja inkluża dik permezz ta' satellita ta' kliem jew immaġni viżivi, sew jekk daww il-kliem jew immaġni jkunu fil-fatt riċevuti minn xi persuna sew jekk le.

X'jikkostitwixxi libell.

**3.** (1) Kliem diffamatorji f'gazzetta jew f'xandir jew fuq sit elettroniku għandhom ikunu meqjusa bħala ppubblikati u li jikkostitwixxu libell.

Kap. 12.

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

(3) Kliem mhumiex diffamatorji sakemm ma jikkawżawx ħsara

serja jew li jistgħu jikkawżaw ħsara 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 mhuxwix ħsara serja sakemm ma jkunx ikkawża jew ikun ser jikkawża telf finanzjarju serju.

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

(b) Meta l-kliem 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 taht dan l-artikolu ma taqax jekk, wara li jkun għew ikkunsidrati l-imputazzjonijiet li jiġu murija li huma veri, l-imputazzjonijiet li ma jiġux murija li huma veri ma jikkawżawx ħsara serja lir-reputazzjoni tal-attur.

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

(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 ġenerali jew speċifiċi, il-bażi tal-opinjoni;

(c) 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 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 għa inġhatat pubbliċità b'mod aċċessibbli għal udjenza kbira f'*medium* stabbilit;

(b) il-pubblikazzjoni hija dikjarazzjoni evalwata minn persuni tal-istess status f'gurnal xjentifiku jew akkademiku;

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

(5) Id-difiżi 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

(ċ) abitwalment teżercita professjoni, arti jew sengħa, u l-fatti attribwiti lilha jirreferu għat-twettieq 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 ġenerali:

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 sinjifikanti fuq it-twettieq 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 ġenerali.

(6) Bla ħsara għad-dispożizzjonijiet l-oħra ta' dan l-artikolu, fi

kwalunkwe azzjoni ta' malafama taht dan l-Att, il-konvenut għandu d-dritt li jissottometti bhala 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 bhal din ma teskludix oħra awtomatikament.

(7) L-EDITOR HUWA MEQJUS LI AĠIXXA XJENTEMENT, FIN-NUQQAS TA' EVIDENZA KUNTRARJA. IL-PUBBLIKATUR HUWA MEQJUS LI AĠIXXA XJENTEMENT Jekk, waqt li kien jaf dwar il-kontenut tal-gazzetta, xandira, sit elettroniku jew kwalunkwe materja oħra stampata, skont kif ikun il-każ, fi kwalunkwe żmien qabel il-pubblikazzjoni, ma waqqafx dik il-pubblikazzjoni.

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

Publikazzjoni  
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 raġjonevolment 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 li l-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 raġjonevoli 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 raġjonevoli 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 għidzju editorjali kif jidrilha li huwa xieraq.

(5) Sabiex jiġi evitat id-dubju, wiehed jista' juża d-difiża taht 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 bl-istess status 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 għamlu revizjoni indipendenti tad-dikjarazzjoni; u

(b) il-valutazzjoni inkitbet b'rabta ma' dik ir-revizjoni.

(3) Meta l-pubblikazzjoni ta' dikjarazzjoni jew valutazzjoni hija privileġġjata bis-saħħa ta' dan l-artikolu, il-pubblikazzjoni ta' kopja xierqa u preċiża ta', astratt 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 jinftiehem -

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

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

Pubblikazzjonijiet privileġġjati.

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

(a) publikazzjonijiet li jkunu saru skont Att tal-

Parlament jew bl-awtorità tal-President ta' Malta jew tal-Kamra tad-Deputati;

(b) pubblikazzjonijiet 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) pubblikazzjonijiet 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) pubblikazzjonijiet 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 ipprojbita 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 Kap. 12.

(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', astratt minn jew taqsira ta', notifika jew materja oħra maħruġa għall-informazzjoni tal-pubbliku minn jew f'isem -

(i) legiżlatura 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', astratt minn jew taqsira ta', dokument disponibbli minn qorti fi kwalunkwe post fid-dinja, jew minn imħallef jew ufficjal ta' dik il-qorti;

(c) 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', astratt minn jew taqsira ta' kwalunkwe dokument iċċirkolat lil membri ta' kumpannija elenkata fil-borża -

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

(ii) mill-awdituri tal-kumpannija, jew

(iii) minn xi membru tal-kumpannija skont id-dritt mġhoti lil minn kwalunkwe liġi.

(e) kopja imparzjali u preċiża ta', astratt minn jew taqsira ta' kwalunkwe dokument iċċirkolat lil membri ta' kumpannija elenkata f'borża li jirrigwarda l-ħatra, reżenja, irtirar jew tkeċċija ta' diretturi ta' kumpannija 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, astratt 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 għudizzjarju 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 pubblikata jew imxandra jew mtella' fuq sit elettroniku tikkonsisti f'rapport preċiż ta' dikjarazzjoni magħmula minn persuna pubblika li kienet taf jew huwa raġjonevolment preżunt li kienet taf jew li kienet mistennija li tkun taf li dak il-kontenut ta' dik id-dikjarazzjoni kien ser jiġi ppublikat f'gazzetta jew f'*medium* tax-xandir jew fuq is-sit 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 raġjonevolment tkun taf jew kienet mistennija li tkun taf li l-kontenut tad-dikjarazzjoni tagħha kienet ser tkun ippublikata f'gazzetta jew f'*medium* tax-xandir jew mtella' fuq sit elettroniku u fil-fatt dak il-kontenut jiġi hekk ippublikat 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.

**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 erbgħin euro (€11,640) bħala danni morali flimkien ma' danni taħt kwalunkwe liġi li tkun fis-seħħ fir-rigward ta' telf reali inkluż telf ta' qligħ:

Danni f'libell.

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

**10.** (1) F'azzjoni ta' malafama l-Qorti għandha tappunta l-każ għas smiġh preliminari fi żmien perjodu ta' għoxrin ġurnata miż-żmien allokati għall-preżentata tar-risposta ġuramentata.

Smigh preliminari.

(2) Il-Qorti għandha, fis-smiġh preliminari, waqt li tikkunsidra debitament is-serjetà ta' kwalunkwe allegazzjoni u l-impatt tagħha fuq l-attur, tiddeċiedi jekk il-kawża tistax tiġi deċiża sommarjament jew permezz ta' medjazzjoni jew bi ftehim bejn il-partijiet jew permezz ta'

apoloġija bi jew mingħajr il-ħlas tal-ispejjeż u ammont ta' danni li ma jeċċedux elf euro (€1000). Meta l-Qorti tiddeċiedi li l-każ jista' jiġi riżolt permezz ta' wieħed mill-mezzi msemmija:

(a) jekk il-każ jista' jiġi deċiż sommarjament, għandha tisma' fil-qosor il-partijiet u tipproċedi sabiex tiddeċiedi l-każ wara li tkun ħalliethom jagħmlu s-sottomissjonijiet tagħhom;

(b) jekk il-qorti tikkunsidra li hemm il-possibilità li l-każ jista' jirrisolvi ruħu permezz ta' medjazzjoni jew ftehim bejn il-partijiet għandha tirreferi l-partijiet għal medjazzjoni li għandha tiġi konkluzi fi żmien speċifiku, u wara dan il-perjodu l-każ ikompli jekk ma jintlaħaq ebda ftehim bejn il-partijiet;

(c) jekk, wara li jkun gie deċiż li l-konvenut huwa lest li jagħmel apoloġija f'termini speċifiċi, il-Qorti tikkunsidra li huwa xieraq li tiddisponi mill-azzjoni permezz ta' apoloġija tal-konvenut bi jew mingħajr il-ħlas ta' spejjeż u bi jew mingħajr il-ħlas lill-attur ta' ammont ta' danni li ma jeċċedux elf euro (€1,000), għandha tipproċedi li tiddisponi mill-azzjoni billi tagħti sentenza skont hekk.

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

Valutazzjoni tal-Qorti.

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

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

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

(c) jekk il-konvenut għamilx jew offriex li jagħmel apoloġija 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-każ qabel ma kien hemm l-opportunità li jagħmel jew li joffri dik l-apoloġija jew kjarifika.

(2) Jekk il-konvenut, qabel il-bidu tal-proċeduri, ikun għamel apoloġija u ppubblika korrezzjoni mhux riżervata bl-istess importanza daqs il-pubblikazzjoni originali jew ippubblika risposta sottomessa mill-attur bl-istess importanza bħall-pubblikazzjoni originali, il-Qorti m'għandhiex tordna ammont ta' danni morali li jeċċedu ħamest elef euro (€5,000).

(3) Tista' tittiehed azzjoni fir-rigward ta' kull imputazzjoni fl-istess każ u l-persuni kkonċernati fil-libell jista' jiġu mharrka 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 il-Qorti għandha b'dak il-mod li hija tqis li huwa xieraq fl-interess tal-proporzjonalita, tieħu in konsiderazzjoni ukoll il-kapaċità ekonomika tal-konvenut u l-impatt illi l-ħlas tas-somma li għandha tingħata x'aktarx ikollu fuq il-gažżetta, x-xandar, is-sit elettroniku, il-ġurnalist jew il-persuna oħra li tipparteċipa fil-midja.

**12.** (1) Dan l-artikolu japplika fejn każ ta' malafama jinbeda kontra l-EDITOR 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-EDITOR li juri li ma kienx l-operatur jew il-persuna li ppubblikat di-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-EDITOR fir-rigward ta' dik id-dikjarazzjoni, u

(c) l-EDITOR 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-sub-artikolu (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 jkunu approvati b' riżoluzzjoni tal-Kamra tad-Deputati qabel ma jidhlu fis-seħħ:

(a) jipprovdi għall-azzjoni meħtieġa li għandha tittiehed mill-EDITOR 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-tehid ta' dik l-azzjoni;

(ċ) 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 ir-raġuni għaliex hi malafama fir-rigward tal-attur,

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

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

(7) Id-difiża taht 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 fil-fatt biss 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 publikazzjoni"), 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 publikazzjoni 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' publikazzjoni sussegwenti għandha titqies bħala li saret fid-data tal-ewwel publikazzjoni.

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

(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;
- (c) il-metodu ta' pubblikazzjoni.

(6) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (3) meta persuna tippubblika kwantità ta' dikjarazzjonijiet għall-pubbliku li jkunu sostanzjalment simili għall-ewwel pubblikazzjoni skont is-subartikolu (5) u ebda azzjoni għal malafama ma tkun għadha inbdiet, il-persuna aggravata ma jkunx permess lilha li tistitwixxi kwantità ta' azzjonijiet kontra l-istess persuna iżda il-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 in konsiderazzjoni dik il-kwantità ta' pubblikazzjonijiet meta tkun qiegħda takkorda danni skont l-artikolu 9;

Iżda meta azzjoni tkun diġa nbdiet kontra persuna skont dan l-Att l-attur ma jithallix jistitwixxi azzjonijiet godda dwar dawk id-dikjarazzjonijiet sussegwenti iżda jkun jista' b'rikors lill-Qorti iġib 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 in konsiderazzjoni 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 giet ippubblikata d-dikjarazzjoni ta' malafama sabiex ineħhi d-dikjarazzjoni minn dak is-sit elettroniku, jew
- (b) lil kwalunkwe persuna li mhijiex l-awtur, l-editur jew il-pubblikatur ta' dik id-dikjarazzjoni malafamanti sabiex tieqaf milli tiddistribwixxi, tbiegħ jew turi materjal li fih dik id-dikjarazzjoni.

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

**15.** (1) Kull persuna li l-azzjonijiet jew l-intenzjonijiet tagħha jkunu ġew misrappreżentati jew li kienet vittma ta' malafama jew li nvadewlha l-ħajja privata tagħha permezz ta' pubblikazzjoni hija intitolata li titlob sabiex tiġi minnufuh ippubblikata, mingħajr ħlas, fl-istess *medium*, dikjarazzjoni ta' kontradizzjoni jew spjegazzjoni:

Dritt għar-risposta.

Iżda dan l-artikolu ma japplikax jekk il-misrappreżentazzjoni ssir f'xandira ta' natura politika li hija parti minn skema approvata mill-Awtorità tax-Xandir fejn il-misrappreżentazzjoni tist' a tiġi kkontradetta jew spjegata minn xandira oħra li hija parti mill-istess skema:

Iżda wkoll ebda persuna m'għandha tkun mitluba li tippubblika dikjarazzjoni bħala kontradizzjoni jew spjegazzjoni li hi malafamanti jew li mhijiex miktuba bil-lingwa tal-pubblikatur 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 jiformax parti mir-risposta, bi prominenza xierqa kif il-pubblikazzjoni nfisha li dwarha ġie eżerċitat id-dritt ta' risposta u r-risposta ma tistax tiġi mqasra 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 ġiet 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.

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

(d) F'każ ta' sit elettroniku, dikjarazzjoni skont is-

subartikolu (1) għandha tiġi ppubblikata fuq is-sit elettroniku mhux aktar tard mit-tieni ġurnata wara li tkun ġiet riċevuta dik it-talba. Ir-risposta għandha tingħata l-istess prominenza li ngħatat lid-dikjarazzjoni li għaliha saret ir-risposta.

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

(f) Editur 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-artikoli 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-editur, 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 publikazzjonijiet 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 talbietu 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 impriza 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-seħh dak iż-żmien fir-rigward ta' telf attwali jew ħsara, ammont li ma jeċċedix haxx il-elf sitt mija u erbgħin euro (€11,640) li għandu jiġi stabbilit mill-Qorti.

Libell  
kummerċjali.

(2) Kumpannija, fondazzjoni, koperativa u kwalukwe persuna ġuridika oħra jistgħu tħarrek jew tiġi mharrka għal malafama.

**17.** (1) Tista' tittiehed azzjoni għal malafama fir-rigward tal-memorja ta' persuna mejta sakemm il-persuna mejta kienet il-missier jew l-omm jew hu jew oħt jew dixxendenti tal-attur jew atturi jew l-attur huwa l-eredi tal-persuna mejta u sakemm id-dikjarazzjoni malafamanti ssir fi żmien għaxar (10) snin mil-mewt tal-persuna li allegatament tkun malafamata:

Malafama fuq  
persuni mejta.

(2) Id-dispożizzjonijiet ta' dan l-artikolu huma mingħajr preġudizzju għad-dritt ta' kwalunkwe persuna li tfittex għad-danni f'każ ta' malafama permezz kliem 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 għandhom, 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 pubblikatur ta' gazzetta jew servizz ta' xandir jista', jekk hekk jagħżel, skont kif ikun il-każ, jipproduci lir-Registatur tal-Midja dikjarazzjoni li jkun fiha -

(a) fil-każ tal-editur -

(i) ismu u kunjomu, numru validu legali ta' dokument ta' identifikazzjoni, eta' 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 ta' pubblikatur -

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

(ii) jekk il-pubblikatur huwa kumpannija jew assoċjazzjoni oħra ta' persuni jew persuna ġuridika, isimha, l-indirizz, id-dettalji msemmija fis-subparagrafu (i) fir-rigward tar-rappreżentant ġuridiku, u, fejn applikabbli, in-numru tar-registrazzjoni tal-kumpannija, soċjetà jew numru ieħor ta' registrazzjoni;

(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 jirregistraw kif provdut f' dan l-artikolu kemm l-editur kif ukoll il-pubblikatur għandhom iżommu lir-Registatur 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 jżomm Regjistru tal-Midja u jdaħħal fih id-dettalji msemmija 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 raġjonevoli waqt il-ħinijiet normali tal-uffiċċju u tista' wkoll, bi ħlas ta' miżata xierqa, titlob kopja ta' ċertifikat ta' kwalunkwe notament fi jew kwalunkwe astratt mir-regjistru miżmum taħt dan l-artikolu.

(3) Ir-Registratur tal-Midja għandu jikkancella registrazzjoni ta' editur jew pubblikatur ta' gazzetta jew ta' servizz ta' xandir-

(a) jekk ikun hekk mitlub bil-miktub mill-editur jew mill-pubblikatur 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-tlett xhur, u fil-każ ta' gazzetta oħra, ma tkunx ippubblikata għal perjodu li jeċċedi sena;

(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 pubblikaturi; 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-analiżi tal-iżviluppi fil-midja 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' liċenza 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 tahtarx persuna oħra sabiex tkun editur flokha.

Protezzjoni tas-sorsi tal-gurnalisti.

**22.** Ebda Qorti jew Tribunal imwaqqaf bl-liġi ma jistgħu jitolbu lil editur, awtur, pubblikatur jew operatur ta' sit elettorniku 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' disordni jew reati jew għall-protezzjoni tal-interessi tal-gustizzja.

Rifjut ma jikkonstitwixx 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' disordni jew reati jew għall-protezzjoni tal-interessi tal-gustizzja u dik il-persuna tippersisti li tirrifjuta li tiżvela s-sors ta' informazzjoni.

Ċertifikat li jservi ta' prova tal-kontenut tiegħu.

**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 il-pubblikatur ta' gazzetta, jew servizz ta' xandir għandu jikkonstitwixxi prova tal-kontenut tiegħu sakemm ma jkunx ipprovat xort'oħra.

Emendi konsegwenzjali għall-Kodiċi Kriminali. Kap. 9.

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

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

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

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

(b) (i) l-artikolu 72 tiegħu għandu jiġi mħassar.

(ii) fl-artikolu 73 tiegħu l-kliem "ixewwxu mibgħeda 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 ixewwxu mibgħeda jew disprezz lejn il-persuna tal-President ta' Malta jew lejn il-Gvern ta' Malta, jew" għandhom jiħassru 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 jiħassar.

(ċ) 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.";

(d) l-artikoli 252, 253, 254, 255 u 256 tiegħu għandhom jiħassru u t-titolu tas-Sub-titolu X tat-Titolu VII tat-Tieni Parti tal-Ewwel Ktieb tiegħu għandu jiġi sostitwit bil-kliem "FUQ IL-KXIF TA' INFORMAZZJONI RIĊEVUTA B'SIGRIET".

Emendi  
konsegwenzjali  
ghall-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  
ghall-Att biex  
Jirregola l-  
Kommunikaz-  
zjonijiet  
Elettronici.  
Kap. 399.

**27.** Fl-Att biex jirregola l-Kommunikazzjonijiet Elettronici minnufih wara l-artikolu 49 tiegħu għandu jiżdied il-proviso ġdid li ġej:

"Iżda sempliċi kliem malafamanti jew dikjarazzjonijiet imlissna jew pubblikati 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-Malafama m'għandhomx jagħtu lok għal reat taht dan l-Att."

Thassir u  
dispożizzjonijiet  
transitorji.  
Kap. 248.

**28.** (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 tahtu.

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

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

(3) L-ammonti ta' danni ċivili li japplikaw taht 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 taht l-Att imħassar qabel ma jkun daħal fis-sehħ dan l-Att.

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

### **Ghanijiet u Raġunijiet**

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' liġi huma sabiex jiġu aġġornati l-liġijiet dwar il-malafama, it-tneħħija tal-libell kriminali, l-introduzzjoni rimedju ċivili ġdid għall-ingurja.

L-Abbozz ta' Liġi jinkludi diversi dispożizzjonijiet li jsaħħu l-libertà tal-midja billi jevita restrizzjonijiet sproporzjonati fuq il-ġurnalisti f'kawżi ta' libell filwaqt li jipproteġi lill-vittmi ta' libell u ingurja.

Ihegġeg ukoll zieda fl-użu ta' mezzi alternattivi ta' soluzzjoni ta' konflitt bħad-dritt ta' risposta, kjarifikazzjonijiet volontarji, medjazzjoni u mezzi oħra prattiċi li jevitaw litigazzjoni ta' libell jew id-dewmien tagħha.

L-Abbozz ta' Liġi jinkludi wkoll emendi konsegwenzjali fil-Kodiċi Kriminali sabiex iżomm uħud mir-reati kriminali li kien provdut dwarhom fl-Att dwar l-Istampa. Hemm ukoll emenda fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili sabiex jiġi projbit il-ħruġ ta' mandati kawtelatorji kontra f'każjiet ta' malafama.

L-Abbozz jabolixxi r-reat kriminali tal-malafama li meta l-Abbozz isir liġi għandu jkun biss delitt ċivili.

**A Bill  
entitled**

*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:-

Short title and commencement.

**1.** (1) The short title of this Act is the Media and Defamation Act, 2017.

(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.

Interpretation.

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

"author" means the person who authors or co-authors any printed matter;

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

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 the person registered as editor in terms of article 19 and includes any person responsible for the publication of information, ideas or images on a web site and the person responsible for a broadcasting medium;

"libel" means defamation by publication;

"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;

"printed matter" means any writing or print by any device, as well as any bill, placard or poster in any manner affixed or impressed and includes any other means whereby words or visual images may be heard or perceived or reproduced and includes any media content and any material uploaded on a website and "words" shall be construed accordingly;

"publication" means any act whereby any printed matter or media content is or may be communicated to or brought to the knowledge of any person or whereby words or visual images are broadcast or uploaded on a website;

"publisher" means a person who owns or controls an enterprise publishing a newspaper or who holds a broadcasting licence and includes any person who owns or controls facilities for the production or reproduction of any printed matter when the said person holds editorial or content control in respect of the said printed matter;

"slander" means defamation by spoken words uttered with malice.

3. (1) Defamatory words in a newspaper or in a broadcast or on a website shall be deemed to be published and to constitute libel. What constitutes libel.

(2) Defamatory words 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. Cap. 12.

(3) Words 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 Defences. Truth.

defendant to show that the imputation conveyed by the words complained of is substantially true.

(b) Where the words 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.

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

(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 when the statement complained of was published;

(ii) anything asserted to be a fact in a privileged statement published; or 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;

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



academic journal;

(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.

(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.

(7) The editor is deemed to have acted knowingly, in default of

evidence to the contrary. The publisher shall have acted knowingly if, being aware of the contents of the newspaper, broadcast, website or other printed matter, as the case may be, at any time before its publication, he did not prevent such publication.

Publication on matter of public interest.

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

(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 -

Cap. 12.

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

(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.

Qualified  
privilege in case  
of public  
statement.

**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 or uploaded to a website 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 a newspaper or in a broadcasting medium or on the web and that the publication of the said statement was reasonably justifiable in a democratic society.

(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 a newspaper or a broadcasting medium or uploaded onto a website 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.

Libel damages.

**9.** In proceedings instituted under this Act, the Court may order the defendant to pay a sum not exceeding twenty thousand euro eleven thousand and six hundred and forty euro (€11, 640) by way of moral damages in addition to damages under any law for the time being in force in respect of actual loss including loss of earnings:

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, giving due regard to the seriousness of any allegation and its impact on the plaintiff, decide whether the action may be determined summarily or by mediation or agreement between the parties or through an apology with or without the payment of costs and an amount of damages not exceeding one thousand euro (€1,000). When the Court decides that the action is capable of being resolved by one of the aforesaid means:

(a) if the action may be determined summarily, it shall briefly hear the parties and shall proceed to decide the case after allowing them to make submissions;

(b) if the court considers that there is a likelihood that the action may be settled by mediation or agreement between the parties it shall refer the parties to mediation to be concluded

within a specified time after which the action shall proceed if no agreement is reached between the parties;

(c) if, after determining that the defendant is willing to make an apology in specific terms, the Court considers that it is appropriate to dispose of the action through an apology of the defendant with or without payment of costs and with or without the payment to the plaintiff of an amount of damages not exceeding one thousand euro (€1,000) it shall proceed to dispose of the action by passing judgement accordingly.

(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.

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

(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, other media actor.

Editors of  
websites.

**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.

(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 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 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.

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

Single  
publication rule.

- (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.

Order to remove statement or cease distribution, etc.

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

(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.

Right of reply.

**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 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:

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 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.

Trade libel.

**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 and six hundred and forty euro (€11,640) to be fixed by the Court.

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

Defamation of deceased persons.

**17.** (1) An action shall lie for defamation in respect of the memory of a deceased person provided that the deceased person was the father or mother or sibling or child of the plaintiff or plaintiffs or the plaintiff is the heir of the deceased person and provided further that the defamatory statement is made within ten (10) years of the death of the person allegedly defamed:

(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 words 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.

Registration of Editors and Publishers.

**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. Media Registrar.

(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;

(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 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.

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.

Refusal not to constitute contempt of court.

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.

Certificate to be proof of its contents.

25. The Criminal Code shall be amended as follows:

Consequential amendments to the Criminal Code. Cap. 9.

(a) 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 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.";

(b) (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;

(c) 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.";

(d) 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".

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

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

"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."

Repeal and transitory provisions. Cap. 248.

**28.** (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.

(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:

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.

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### **Objects and Reasons**

The objects and reasons of this Bill are the updating of the laws on defamation, the abolition of criminal libel and the introduction of a new civil remedy for slander.

The Bill includes various provisions which strengthen freedom of the media by seeking to avoid disproportionate restrictions on journalists in actions in libel whilst protecting the victims of libel and slander.

It also encourages increased use of alternative means of dispute resolution such as the right of reply, voluntary clarifications, mediation and other practical means of avoiding libel litigation or the protraction thereof.

The Bill also includes consequential amendments to the Criminal Code in order to retain some of the criminal offences formerly provided for in the Press Act. The bill also introduces an amendment to the Code of Organization and Civil Procedure in order to prohibit the issue of precautionary warrants in defamation cases.

The Bill also abolishes the crime of defamation which shall henceforth only be a civil tort.