

LIBEL AND DEFAMATION ACT

CHAPTER 11:16

Act

11 of 1845

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Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

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LIBEL AND DEFAMATION ACT

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CHAPTER 11:16

LIBEL AND DEFAMATION ACT

An Act respecting defamatory words and libel.

1950 Ed.
Ch. 4, No. 10.
11 of 1845.
Commencement.

[26TH JANUARY 1846]

Short title.

1. This Act may be cited as the Libel and Defamation Act.

When action for
defamation
maintainable.

2. No action for defamation shall be maintainable in any Court of justice in Trinidad and Tobago in respect of words spoken, except in those cases in which an action would be maintainable in respect of the same words in England.

The truth may
be pleaded by
way of
justification.

3. In any action for defamation or for libel, the defendant may plead the truth of the matters charged by way of justification in the same manner as he might do in a like action in a Court in England and the plea shall be a sufficient answer in law to any such action; and if, on the issue joined on such plea, a verdict is given for the defendant, the defendant shall have final judgment and recover his costs of suit.

Offer of apology
admissible in
mitigation of
damages.

4. In any action for defamation, the defendant may (after notice in writing of his intention to do so duly given to the plaintiff at the time of filing or delivering the plea in the action) give in evidence in mitigation of damages, that he made or offered an apology to the plaintiff for the defamation before the commencement of the action or as soon afterwards as he had an opportunity of doing so in case the action was commenced before there was an opportunity of making or offering the apology.

Actions against
newspaper.

5. In any action for a libel contained in any public newspaper or other periodical publication, it shall be competent to the defendant to plead that the libel was inserted in the newspaper or other periodical publication without actual malice, and without gross negligence, and that before the commencement of the action, or at the earliest opportunity afterwards, he inserted in the newspaper or other periodical publication a full apology for the libel, or, if the newspaper

or periodical publication in which the libel appeared is ordinarily published at intervals exceeding one week, had offered to publish the apology in any newspaper or periodical publication to be selected by the plaintiff in the action; and every such defendant shall, upon filing such plea, be at liberty to pay into Court a sum of money by way of amends for the injury sustained by the publication of the libel; and the payment into Court shall be of the same effect and be available in the same manner and to the same extent as any payment into Court under the rules of the Supreme Court.

6. Words spoken and published which impute unchastity or adultery to any woman or girl shall not require special damage to render them actionable; but in any action for words spoken and made actionable by this section, a plaintiff shall not recover more costs than damages, unless the Court certifies that there was reasonable ground for bringing the action.

Words imputing unchastity to woman, actionable.

7. In all actions for libel or slanderous words spoken, to be sued or prosecuted by any person in the High Court, if upon the trial the damages are found and assessed under one hundred dollars, then the plaintiff in the action shall have and recover only so much costs as the damages so given or assessed amount to, any law, custom, or usage to the contrary notwithstanding.

Costs in civil actions. [45 of 1979].

8. If any person maliciously publishes any defamatory libel, knowing the same to be false, he is liable on conviction to imprisonment for two years and to pay such fine as the Court directs.

False, defamatory libel.

9. If any person maliciously publishes any defamatory libel, upon conviction thereof he is liable to pay a fine and to imprisonment for one year.

Malicious, defamatory libel.

10. (1) On the trial of any indictment for a defamatory libel, the defendant having pleaded the plea as mentioned in this section, the truth of the matters charged may be enquired into, but shall not amount to a defence, unless it was for the public benefit that the matters charged should be published; and to entitle the defendant to give evidence of the truth of the matters charged as a

Proceedings on trial of indictment for defamatory libel.

defence to the indictment, it shall be necessary for the defendant in pleading to the indictment to allege the truth of the matters charged in the manner required in pleading a justification to an action for defamation, and further to allege that it was for the public benefit that the matters charged should be published, and the particular fact or facts by reason whereof it was for the public benefit that the matters charged should be published, to which plea the prosecutor shall be at liberty to reply generally denying the whole thereof; but if after the plea the defendant is convicted on the indictment, it shall be competent to the Court in pronouncing sentence to consider whether the guilt of the defendant is aggravated or mitigated by the plea, and by the evidence given to prove or disprove it.

(2) The truth of the matters charged in the alleged libel complained of by the indictment shall in no case be enquired into without such plea or justification; and, in addition to such plea, it shall be competent to the defendant to plead a plea of not guilty.

(3) Nothing contained in this Act shall take away or prejudice any defence under the plea of not guilty which is competent to the defendant to make under the plea to an action or indictment for defamatory words or libel.

Evidence to rebut *prima facie* case of publication by an agent.

11. Whenever, upon the trial of any indictment for the publication of a libel under the plea of not guilty, evidence is given which establishes a presumptive case of publication against the defendant by the act of any other person by his authority, it shall be competent to the defendant to prove that the publication was made without his authority, consent, or knowledge, and that the publication did not arise from want of due care or caution on his part.

Costs in private prosecutions.

12. In the case of an indictment by a private prosecutor for the publication of any defamatory libel, if judgment is given for the defendant, he is entitled to recover from the prosecutor the costs sustained by the defendant by reason of the indictment; and upon a special plea of justification to the indictment, if the issue is found for the prosecutor, he is entitled to recover from the defendant the costs

sustained by the prosecutor by reason of the plea, such costs to be recovered by the defendant or prosecutor respectively to be taxed by the proper officer of the Court before which the indictment is tried.

13. (1) A fair and accurate report in any newspaper of proceedings publicly heard before any Court exercising judicial authority shall, if published contemporaneously with the proceedings, be privileged, but nothing in this section shall authorise the publication of blasphemous or indecent matter.

Newspaper reports of proceedings in Court privileged.

(2) It is an offence to print or publish, or cause or procure to be printed or published—

Restriction on publication of reports of judicial proceedings.

(a) in relation to any judicial proceedings, any indecent matter or indecent medical, surgical or physiological details being matter or details the publication of which would be calculated to injure public morals;

(b) in relation to any judicial proceedings for dissolution of marriage, for nullity of marriage, or for judicial separation, any particulars other than the following, that is to say:

- (i) the names, addresses and occupations of the parties and witnesses;
- (ii) a concise statement of the charges, defences and countercharges in support of which evidence has been given;
- (iii) submissions on any point of law arising in the course of the proceedings, and the decision of the Court thereon;
- (iv) the judgment of the Court and observations made by the Judge in giving judgment.

(3) Nothing in subsection (2) shall be held to permit the publication of anything contrary to the provisions of paragraph(a) of that subsection.

(4) Any proprietor, editor, master printer, or publisher who acts in contravention of this section is, in respect of each offence, liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for four months.

Penalties.
Who may be convicted.

Exceptions.

(5) Nothing in this section shall apply to the printing of any pleading, transcript of evidence or other document for use in connection with any judicial proceedings or communication to persons concerned in the proceedings, or to the printing or publishing of any notice or report in pursuance of the directions of the Court; or to the printing or publishing of any matter in any separate volume or part of any *bona fide* series of law reports which does not form part of any other publication and consists solely of report of proceedings in Courts of law, or in any publication of a technical character *bona fide* intended for circulation among members of the legal or medical professions.

Newspaper reports of proceedings of public meetings and of certain bodies and persons privileged.

14. (1) A fair and accurate report published in any newspaper of the proceedings of a public meeting, or (except where neither the public nor any newspaper reporter is admitted) of any meeting of a council, board, or local authority formed or constituted under the provisions of any written law or of any committee appointed by any of the above-mentioned bodies, and the publication at the request of any Government office or department of any notice or report issued by them for the information of the public shall be privileged, unless it is proved that the report or publication was published or made maliciously.

(2) The protection intended to be afforded by this section shall not be available as a defence in any proceedings if it is proved that the defendant has been requested to insert in the newspaper in which the report or other publication complained of appeared a reasonable letter or statement by way of contradiction or explanation of such report or other publication, and has refused or neglected to insert the same.

(3) Nothing in this section—

- (a) shall authorise the publication of any blasphemous or indecent matter; or
- (b) shall be deemed or construed to limit or abridge any privilege now by law existing, or to protect the publication of any matter not of public concern and the publication of which is not for the public benefit.

(4) For the purposes of this section “public meeting” means any meeting *bona fide* and lawfully held for a lawful purpose, and for the furtherance of discussion of any matter of public concern, whether the admission thereto be general or restricted.

15. (1) It shall be competent for a Judge or the Court, upon an application by or on behalf of two or more defendants in actions in respect of the same, or substantially the same, libel brought by one and the same person, to make an order for the consolidation of the actions, so that they shall be tried together; and after the order has been made, and before the trial of the actions, the defendants in any new actions instituted in respect of the same, or substantially the same, libel are also entitled to be joined in a common action upon a joint application being made by the new defendants and the defendants in the actions already consolidated.

Consolidation of actions.

(2) In a consolidated action under this section the Court shall assess the whole amount of the damages (if any) in one sum, but a separate verdict shall be taken for or against each defendant, in the same way as if the actions consolidated had been tried separately; and if the Court finds a verdict against the defendant or defendants in more than one of the actions so consolidated, the Court shall proceed to apportion the amount of damages so found between and against such defendants; and the Judge at the trial, if he awards to the plaintiff the costs of the action, shall also make such order as he considers just for the apportionment of the costs between and against the defendants.

16. At the trial of an action for a libel contained in any newspaper the defendant shall be at liberty to give in evidence in mitigation of damages that the plaintiff has already recovered (or has brought actions for) damages or has received or agreed to receive compensation in respect of a libel or libels to the same purport or effect as the libel for which the action has been brought.

Power to defendant to give certain evidence in mitigation of damages.

17. No criminal prosecution shall be commenced against any proprietor, publisher, printer, editor, or any person responsible for the publication of a newspaper for any libel published therein without the sanction of the Director of Public Prosecutions.

Sanction of Director of Public Prosecutions required for prosecution. [136/1976].