

# **NORTHERN TERRITORY OF AUSTRALIA**

## **DEFAMATION ACT**

As in force at 30 October 2002

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 30 October 2002

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## DEFAMATION ACT

An Act relating to defamation

### **1 Short title**

This Act may be cited as the *Defamation Act*.

### **2 Defamation actionable**

The unlawful publication of defamatory matter (including words spoken) is an actionable wrong without proof of special damage to the person defamed.

### **5 Privilege of reports of legal proceedings**

A fair and accurate report of proceedings publicly heard before any court exercising judicial authority shall, if published contemporaneously with the proceedings, be privileged:

Provided that nothing in this section shall authorize the publication of any blasphemous or indecent matter.

### **6 Privilege of reports of proceedings of public meetings and of certain bodies and persons**

(1) A fair and accurate report of the proceedings of:

- (a) a public meeting;
- (b) any meeting (not being a meeting to which neither the public nor any reporter is admitted) of a municipal or community government council, school committee or board of advice, board of health, board or local authority formed or constituted under the provisions of any law in force in the Territory, or of any committee appointed by any of the above-mentioned bodies;
- (ba) a meeting of the Legislative Assembly or of a committee of that Assembly;

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- (c) a meeting in the Territory of any royal commission or select committee of either House of the Parliament of the Commonwealth; or
  - (d) a meeting of shareholders in any ADI or incorporated company,

and the publication at the request of any Government office or department, or at the request of the Minister, the Administrator or the Commissioner of Police, of any notice or report issued by it or him for the information of the public, shall be privileged unless it is proved that the report or publication was published or made maliciously:

Provided that:

- (a) nothing in this section shall authorize the publication of any blasphemous or indecent matter;
  - (b) the protection afforded by this section shall not be available as a defence in any proceedings if it is proved that the defendant was requested to publish a reasonable letter or statement by way of contradiction or explanation of the original publication, and refused or neglected to insert the letter or statement;
  - (c) nothing in this section 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.
- (2) For the purposes of this section, **public meeting** means any meeting bona fide and lawfully held for a lawful purpose, and for the furtherance or discussion of any matter of public concern, whether the admission thereto be general or restricted.

## **6A Fair comment**

Fair comment shall be privileged if it is published in respect of:

- (a) any of the matters with respect to which a fair and accurate report or publication is privileged under section 6;
- (b) the public conduct of any person who takes part in public affairs, or the character of any such person, so far as his character appears in that conduct;
- (c) the conduct of any public officer or public servant in the discharge of his public functions, or the character of any such person, so far as his character appears in that conduct;

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- (d) the merits of any case, civil or criminal, that has been decided by any court of justice, or the conduct of any person as a judge, party, witness, counsel, solicitor, or officer of the court, in any such case, or the character of any such person, so far as his character appears in that conduct;
  - (e) any production, or the character of the author, so far as character appears by the production;
  - (g) any public entertainment or sports, or the character of any person conducting or taking part therein, so far as his character appears from the matter of the entertainment or sports, or the manner of conducting the entertainment or sports.

## **8 Offer of an apology**

In any action for defamation, the defendant may, after notice in writing of his intention so to do, duly given to the plaintiff at the time of filing or delivering the defence 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, if the action was commenced before there was an opportunity of making or offering an apology for the defamation, as soon afterwards as he had an opportunity of doing so.

## **9 Defence in action for defamation**

- (1) In an action for defamation, the defendant may plead that the matter the subject of the action was published without actual malice and without gross negligence and that before the commencement of the action, or at the earliest opportunity afterwards, the defendant published a full apology or offered to publish such an apology in any reasonable publication to be selected by the plaintiff in the action.
- (2) The defendant upon filing such defence may pay into court a sum of money by way of amends for the injury sustained by the publication of the defamation.
- (3) To such a defence the plaintiff may reply generally denying the whole of the defence.

## **10 Evidence in mitigation of damages**

At the trial of an action for defamation, the defendant may give in evidence in mitigation of damages that the plaintiff has already recovered or has brought an action for damages, or has received or agreed to receive compensation, in respect of a defamation to the same purport or effect as the defamation for which the action has

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been brought.

**11        Proof of publication**

- (1) On the trial of an action for defamation contained in a publication, the production of the publication containing a statement that it is printed, produced, published, distributed or authorized by or for the defendant is prima facie evidence that it was so printed, produced, published, distributed or authorized.
- (2) Evidence that a number or part of a publication appearing to be a periodical is printed, produced, published, distributed or authorized by or for the defendant is prima facie evidence that a publication appearing to be another number or part of the publication was so printed, produced, published, distributed or authorized.

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## ENDNOTES

**1****KEY**

Key to abbreviations

amd = amended  
 app = appendix  
 bl = by-law  
 ch = Chapter  
 cl = clause  
 div = Division  
 exp = expires/expired  
 f = forms  
 Gaz = Gazette  
 hdg = heading  
 ins = inserted  
 lt = long title  
 nc = not commenced

od = order  
 om = omitted  
 pt = Part  
 r = regulation/rule  
 rem = remainder  
 renum = renumbered  
 rep = repealed  
 s = section  
 sch = Schedule  
 sdiv = Subdivision  
 SL = Subordinate Legislation  
 sub = substituted

**2****LIST OF LEGISLATION*****Defamation Ordinance 1938 (Act No. 10, 1938)***

Assent date	7 July 1938
Commenced	7 July 1938

***Defamation Ordinance 1963 (Act No. 76, 1963)***

Assent date	28 November 1963
Commenced	28 November 1963

***Defamation Ordinance 1964 (Act No. 51, 1964)***

Assent date	18 September 1964
Commenced	18 September 1964

***Ordinances Revision Ordinance 1973 (Act No. 87, 1973)***

Assent date	11 December 1973
Commenced	11 December 1973 (s 12(2))

**Amending Legislation*****Ordinances Revision Ordinance 1974 (Act No. 34, 1974)***

Assent date	26 August 1974
Commenced	11 December 1973 (s 3(2))

***Ordinances Revision Ordinance (No. 2) 1974 (Act No. 69, 1974)***

Assent date	24 October 1974
Commenced	11 December 1973 (s 3)

***Ordinances Revision Ordinance 1976 (Act No. 27, 1976)***

Assent date	28 June 1976
Commenced	ss 1, 2 and 6: 28 June 1976 (s 6(2)); ss 3 and 4: 11 December 1973; s 5: 24 October 1974

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**Statute Law Revision Act (No. 2) 1979 (Act No. 128, 1979)**

Assent date 15 October 1979  
Commenced 15 October 1979

**Defamation Amendment Act 1989 (Act No. 49, 1989)**

Assent date 20 September 1989  
Commenced 1 January 1990 (*Gaz* S73, 21 December 1989)

**Local Government (Consequential Amendments) Act 1993 (Act No. 84, 1993)**

Assent date 31 December 1993  
Commenced 1 June 1994 (s 2, s 2 *Local Government Act* 1993 (Act No. 83, 1993) and *Gaz* S35, 20 May 1994)

**Statute Law Revision (Financial Provisions) Act 2002 (Act No. 38, 2002)**

Assent date 13 September 2002  
Commenced 30 October 2002 (*Gaz* G43, 30 October 2002, p 3)

### 3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Ordinances Revision Ordinance* 1973 (Act No. 87, 1973) (as amended) to the following provisions: ss 3, 6A, 7 and 11.

### 4 LIST OF AMENDMENTS

lt	amd No. 49, 1989, s 13
s 1	amd No. 49, 1989, s 13
s 2	sub No. 49, 1989, s 4
ss 3 – 4	rep No. 49, 1989, s 4
s 5	amd No. 49, 1989, s 5
s 6	amd No. 76, 1963, s 2; No. 128, 1979, s 10; No. 49, 1989, s 6; No. 84, 1993, s 6; No. 38, 2002, s 6
s 6A	ins No. 51, 1964, s 2
	amd No. 49, 1989, s 7
s 7	amd No. 87, 1973, s 12
	rep No. 49, 1989, s 8
s 9	amd No. 49, 1989, s 9
s 10	amd No. 49, 1989, s 10
s 11	sub No. 49, 1989, s 11
ss 12 – 15	rep No. 49, 1989, s 11
sch	rep No. 49, 1989, s 11