

NORTHERN TERRITORY OF AUSTRALIA

DEFAMATION AMENDMENT ACT 1989

No. 49 of 1989

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NORTHERN TERRITORY OF AUSTRALIA

No. 49 of 1989

AN ACT

to amend the *Defamation Act*

[Assented to 20 September 1989]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Defamation Amendment Act 1989*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Defamation Act* is in this Act referred to as the Principal Act.

4. REPEAL AND SUBSTITUTION

Sections 2, 3 and 4 of the Principal Act are repealed and the following substituted:

"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."

Defamation Amendment

5. PRIVILEGE OF REPORTS OF LEGAL PROCEEDINGS

Section 5 of the Principal Act is amended by omitting "in any newspaper".

6. PRIVILEGE OF REPORTS OF PROCEEDINGS OF PUBLIC MEETINGS AND OF CERTAIN BODIES AND PERSONS

Section 6(1) of the Principal Act is amended -

- (a) by omitting "published in any newspaper";
- (b) by omitting from paragraph (b) (first occurring) "newspaper"; and
- (c) by omitting from paragraph (b) (second occurring) "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 the report or other" and substituting "publish a reasonable letter or statement by way of contradiction or explanation of the original".

7. FAIR COMMENT

Section 6A of the Principal Act is amended by omitting paragraphs (e) and (f) and substituting the following:

- "(e) any production, or the character of the author, so far as character appears by the production; or".

8. REPEAL

Section 7 of the Principal Act is repealed.

9. DEFENCE IN ACTION FOR DEFAMATION

Section 9 of the Principal Act is amended -

- (a) by omitting subsection (1) and substituting the following:

"(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."; and

- (b) by omitting from subsection (2) "libel" and substituting "defamation".

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10. EVIDENCE IN MITIGATION OF DAMAGES

Section 10 of the Principal Act is amended -

- (a) by omitting "a libel contained in any newspaper" and substituting "defamation"; and
- (b) by omitting "libel or libels to the same purport or effect as the libel" and substituting "defamation to the same purport or effect as the defamation".

11. REPEAL AND SUBSTITUTION

Sections 11, 12, 13, 14 and 15 of the Principal Act are repealed and the following substituted:

"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."

12. REPEAL

The Schedule to the Principal Act is repealed.

13. FURTHER AMENDMENTS

The Principal Act is further amended by omitting from the Long Title and section 1 "Ordinance" and substituting "Act".

14. TRANSITIONAL

The law in force immediately before the commencement of this Act shall apply to and in relation to a cause of action arising under that law (including the common law) before the commencement of this Act as if this Act had never commenced.